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ABSTRACT

The "Student Financial Aid Handbook" explains the policies and procedures required for institutions of higher education to administer federally funded student financial assistance programs properly. This volume focuses on institutional eligibility and explains how a school becomes eligible to participate in the Student Financial Assistance (SFA) programs and the administrative and fiscal requirements of participation. The chapters are: (1) "Institutional and Program Eligibility"; (2) "General Participation Requirements"; (3) "Administrative Capability"; (4) "Financial Responsibility"; (5) "Cash Management"; (6) "Return of Title IV Funds"; (7) "Consumer Information"; (8) "Recordkeeping and Disclosure"; (9) "Agreements between Schools"; (10) "Applying for and Maintaining Participation in the SFA Programs"; (11) "Program Reviews and Audits"; and (12) "Distance Education." (SLD)

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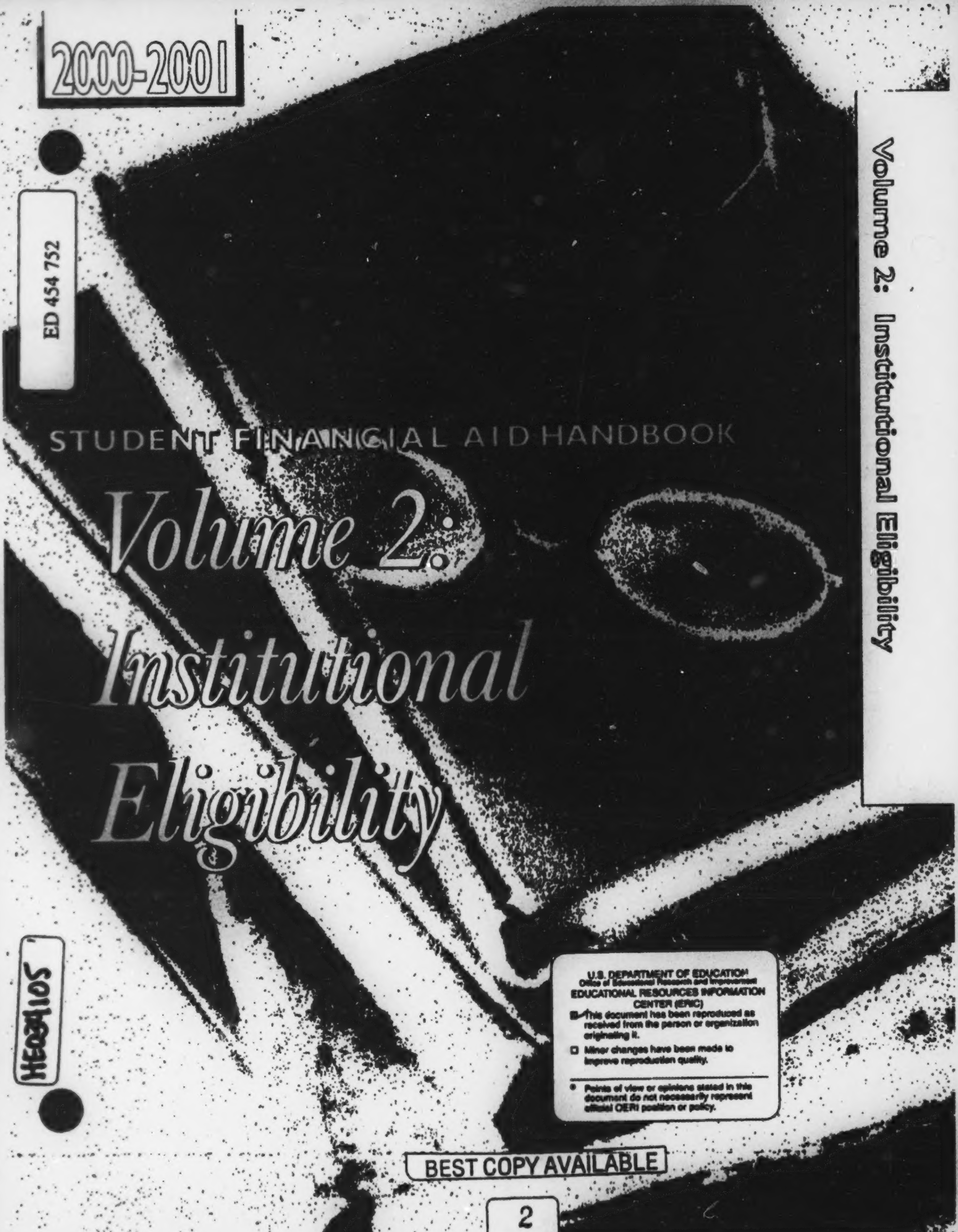

STUDENT FINANCIAL AID HANDBOOK

Volume 2: Institutional Eligibility

Volume 2: Institutional Eligibility

HE034105

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Student Financial Assistance Handbook

Volume 2 of 9
Volume 1: Student Eligibility
Volume 2: Institutional Eligibility
Volume 3: Pell Grant Program
Volume 4: Campus-based Common Provisions
Volume 5: Perkins Loans
Volume 6: Federal Work Study
Volume 7: Supplemental Educational Opportunity Grants
Volume 8: Direct Loan and FFEL Programs
Volume 9: State Grant Programs

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Introduction

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The purpose of this publication is to describe how a school becomes eligible to participate in the Student Financial Assistance (SFA) Programs and to explain the administrative and fiscal requirements of SFA Program participation. In addition, this publication discusses other issues relevant to the general administration of the SFA Programs.

This introduction provides a brief overview of each chapter and lists the major changes to the content of each.

New information is indicated with the following symbol:

Major Changes by Chapter:

Chapter 1: Institutional and Program Eligibility

Chapter 1 explains the statutory definitions for eligible institutions and program eligibility requirements.

- The Amendments of 1998 made the following changes that effect this chapter:

  Δ The eligible institution definitions are consolidated in the law.
  Δ Schools are required to provide evidence of their authority to operate in a state.
  Δ Student eligibility is extended to some home-schooled students.
  Δ Clarification of the definition of a branch campus is provided.
  Δ The definition of "additional location" is explained.
  Δ Schools must make a good faith effort to distribute voter registration forms unless the school is located in a state that has in effect the motor vehicle-voter registration provision of the National Voter Registration Act.
  Δ Schools in Puerto Rico are not required to distribute voter registration forms because Puerto Rico is not a State under the National Voter Registration Act.
  Δ The percentage of revenue from the SFA Programs that a proprietary school may derive is changed from 85% to 90%.

- Δ A Proprietary institution of higher education must use the cash basis of accounting in determining whether it satisfies the 90/10 rule.
- Δ Funds received from prepaid State tuition plans, loan proceeds from institutional loans which were disbursed to students, and institutional scholarships cannot be used as "income" in a school's 90/10 calculation.
- Δ Funds held as credit balances in institutional accounts can not be counted in the 90/10 formula.
- Δ Revenue generated from the sale of non-recourse institutional loans to unrelated parties is counted as revenue in the denominator of the 90/10 calculation to the extent of actual proceeds.
- Δ The Incarcerated Student Limitation waiver is expanded.
- Δ An exemption from bankruptcy provision for some schools that provide health care services are added.
- Δ Requirements for foreign medical schools now apply to foreign veterinary schools.

- The procedures a school should follow to report a change in primary institution-wide accreditation, add an additional accrediting agency or to change their primary accreditor is discussed.

- Additional guidance on 90/10 and institutional loans and scholarships can be found in Dear Partner Letter GEN-99-33 and Dear CPA Letters: CPA-99-01 and CPA-99-02.

- The Solomon-Pombo Amendments no longer effect the SFA Programs.

Chapter 2: General Participation Requirements

Chapter 2 is an overview of the general requirements for SFA Program participation.

- The Amendments of 1998 made the following changes that effect this chapter:

  - Δ An exemption is added for some schools from the required submission of a default management plan.
  - Δ The requirement that a school submit information related to athletically related student aid is moved, with some modifications, from the Program Participation Agreement section of the law to the Equity in Athletics section of the law.
  - Δ Schools are required to make a good faith effort to distribute voter registration forms unless the school is in a state that has in effect the motor vehicle registration provision of the National Voter Registration Act.
  - Δ Clarification that a school must provide a copy of its contract with a third-party servicer only upon request is provided.

Chapter 3: Administrative Capability

Chapter 3 discusses the requirements a school must meet to demonstrate that it is administratively capable of participating in the SFA Programs.

- Information is included on Action Letter GEN-97-11, published October 1997, that provides additional guidance on the implementation of the electronic processes requirements.

- The Amendments of 1998 made the following changes that effect this chapter:

  - Δ The Department must notify schools, guaranty agencies, lenders, interested software providers and others of software and hardware requirements by December 1 prior to the beginning of the award year.
  - Δ An exemption is provided for some schools from required submission of a default management plan.
  - Δ A school is ineligible to participate in the Pell Grant Program if it loses eligibility to participate in the FFEL or the Direct Loan programs due to high default rates.

- Information is provided on the Department's "fax broadcast" service.

Chapter 4: Financial Responsibility

Chapter 4 describes the financial responsibility requirements for all schools participating in the SFA Programs.

- The Amendments of 1998 made the following changes that effect this chapter:

  - Δ The criteria used to determine the financial responsibility of a school is revised to be based on whether it meets certain ratios that demonstrate financial responsibility. Previous criteria required the Department to consider operating losses, net worth, asset-to-liabilities ratios, or operating fund deficits.
  - Δ Public schools are included with for-profit and nonprofit institutions with respect to taking into consideration differences in generally accepted accounting principles.
  - Δ The Department is permitted to determine what third-party financial guarantees are acceptable in order for a school to be considered financially responsible even though it failed to meet other mandated measures of financial responsibility.

- This chapter includes a discussion of the November 25, 1997 final regulations that substantially revised the financial responsibility requirements.

Chapter 5: Cash Management

Cash management rules are discussed in Chapter 5.

- The Amendments of 1998 made the following changes that effect this chapter:

  Δ Provided exemptions, under certain circumstances, to schools with low default rates from multiple disbursement requirements and the 30-day delay requirements.
  Δ 1. The terms "post-withdrawal disbursement" and "late disbursements" are clarified.
  Δ 2. Schools may now carry funds forward to subsequent years as well as back in both the Federal SEOG and Federal Work Study. Funds can also be moved in either direction between the two programs.
- Clarification on the definition and handling of SFA credit balances is provided.

Chapter 6: Return of Title IV Funds

Chapter 6 explains how SFA Program funds are handled for students who withdraw from school.

- This chapter has been updated in its entirety to reflect the new regulations.

  Δ The Amendments of 1998 changed substantially the way funds paid toward a student's education are to be handled when a recipient of SFA Program funds withdraws from school. Schools are not required to implement these new provisions until October 7, 2000. However, a school may choose to implement the new provisions prior to that date.
  Δ Only Title IV funds are used in the calculation. Institutional refund or withdrawal policies and non-title IV funds are not applicable to the formula.
  Δ The amount that a student "earns" is proportionate to the amount of time he or she was enrolled in the school's payment period or period of enrollmment. The remaining amount must be returned to the Title IV programs proportionally from the school and the student.
  Δ "Funds that were disbursed" and "funds that could have been disbursed" are discussed.
  Δ Counting the number of days in the pay period or period of enrollment, leaves of absence and excused absences are discussed.
  Δ Determining the withdrawal date for schools that do and do not take attendance is discussed.
  Δ Both the school and the student must return loan funds before grant funds.
  Δ The Department has implemented new collection options for collection of grant overpayments.
  Δ The Department has created separate worksheets for Credit Hour and Clock Hour Schools.
  Δ Blank worksheets, and case studies with completed worksheets are provided at the end of the chapter.

  - Δ The Department may now assess a penalty, equivalent to the penalty applicable to nonpayment of taxes, for a willful failure to pay a refund.
- Clarification is provided on the definition of institutional charges. This clarification was published in a Policy Bulletin that was published on the Information for Financial Aid Professionals (IFAP) web site on January 7, 1999.

Chapter 7: Consumer Information

Chapter 7 provides information on the requirements for the consumer information that a school must provide to students, the Department, and others.

- The Amendments of 1998 made the following changes that effect this chapter:

Basic Consumer Information Requirements

Δ A school may use electronic media to provide required consumer information to students.

Δ Each year a school must provide to enrolled students a list of the information it must disseminate under the Higher Education Act of 1965, as amended, and the Family Education Rights and Privacy Act (FERPA) and the procedures for obtaining the information.

Δ Schools must provide information about deferments available to their borrowers who are performing volunteer work.

Campus Security Requirements

Δ Schools must submit their crime statistics annually to the Department. The Department is required to make copies of these statistics available to the public and must submit to Congress a comprehensive report on crime statistics by September 1, 2000.

Δ By October 1 of each year, a school must publish and distribute its annual campus security report to all enrolled students, current employees, prospective students and prospective employees using specific methods.

Δ Changes are made to the definition of a campus.

Δ The list of crimes that a school must include in its annual statistical report and its Annual Security Report have expanded and changed.

Δ The reports required in the school's Annual Security Report have also changed.

Δ Schools must make, keep and maintain daily logs of crimes reported to police or security departments by a school calendar year in which the crime was reported. It may not include the identification of the victim or the person accused of committing the crime.

Δ "Campus Security Authority" and "pastoral or professional counselor" are defined.

Δ A school must provide a geographic breakdown for the required crime statistics.

Δ The previous three calendar years' crime statistics must be disclosed.

Δ A school is not required to report statistics related to crimes that are reported to a pastoral counselor or a professional counselor who is functioning within the scope of his or her license or certification.

Δ In their campus crime statistics, schools should report only those alcohol, drug, and weapons offenses that are violations of the law.

Student Right to Know Requirements

Δ Disclosures must be made by July 1 of each year.

Δ A specific cohort of sttudents must be tracked annually.

Δ Schools may provide supplemental information about students who were excluded from the completion rate calculation or for students transferring into the institution. It may report information showing the rate at which students transfer out of the institution if its mission ddoes *not* include providing substantial preparation for its students to enroll in another eligible school.

Δ A school is required to calculate and disclose its transfer out rates if it determines that its mission includes preparing students to enroll in other institutions (such as a community college).

Δ The NCAA is allowed to distribute graduation rate information to all secondary schools in the U.S. to satisfy the distribution requirements for prospective student athletes' guidance counselors and coaches.

Equity in Athletics Requirements

Δ The requirement that a school submit information related to athletically related student aid is moved from the Program Participation Agreement section of the law to the Equity in Athletics section of the law.

Δ The Department will collect the EADA data through the World Wide Web at: http://www.ed.gov/offices/OPE/News/.

Δ The contents of the Equity in Athletics/EADA Report has changed.

Chapter 8: Recordkeeping and Disclosure

Chapter 8 discusses the requirements for maintaining and disclosing records for the SFA Programs.

- No major changes.

Chapter 9: Agreements Between Schools

Chapter 9 discusses the use of agreements between schools to pay a student who is taking courses in an eligible program at more than one school.

- No major changes.

Chapter 10: Applying for and Maintaining Participation in the SFA Programs

Chapter 10 explains how to apply for SFA participation, changes that can affect a school's participation and how to report these changes, the Quality Assurance Program, and the Experimental Sites Initiative.

- The Amendments of 1998 made the following changes that effect this chapter:
  - Δ A school is allowed to provide a copy of its contract with a third-party servicer upon request, rather than being required to submit it as part of the certification process.
  - Δ The Application must contain information that allows the Department to evaluate a school's financial responsibility and administrative capability.
  - ΔThe certification period is extended to up to 6 years. In addition, the Department must notify schools six months in advance of the expiration of their certification.
  - Δ Site visits as part of the certification and recertification process are now permissive rather than mandatory.
  - Δ Schools may submit an application marked "preacquisition review" before a change in ownership takes place.
  - Δ The Department may grant provisional certification to a school seeking approval of a change in ownership based on the Department's review of a materially complete application and supporting documents that is received by the Department within 10 business days of the transaction for which approval is sought.
  - Δ A school is exempt from submitting a default management plan if (a) neither the subordinate institution nor parent institution has a cohort default rate of more than 10 percent and (b) the new owner does not own, and has not owned, any other school with a cohort default rate in excess of 10 percent.
  - Δ The Department must publish special recertification regulations for foreign schools that receive less than $500,000 in FFEL loan funds.
  - Δ The Amendments also made several changes to the Quality Assurance Program and the Experimental Sites Initiative.
- This chapter provides an update on the Single Identifier Initiative.

- The electronic application process is described.

- Changing from a non-main campus to a brrranch campus is discussed.

Chapter 11: Program Reviews and Audits

Program Integrity issues, such as audits and program reviews, responsibilities that a school must fulfill when leaving the SFA Programs, and sanctions and corrective actions taken by the Department are discussed in Chapter 11.

- The Amendments of 1998 made the following changes that effect this chapter:

  Δ Each state (through at least one state agency) must furnish the Department, upon request, with information regarding licensing and other authorization for a school to operate in that state, promptly notify the Department of revocations of licensure or authorization, and promptly notify the Department of credible evidence that a school has committed fraud in the administration of the SFA Programs or has substantially violated a provision of the HEA.
  Δ Changes are made to the requirements for accrediting agencies.
  Δ A limited exception to the annual audit requirement was created.
  Δ Site visits as part of the certification and recertification process are now permissive rather than mandatory.
  Δ The Department is required to give priority in program reviews to schools that meet certain criteria. In addition, the Amendments added special administrative rules for program reviews. Civil penalties arising from a program review or audit to be based upon the gravity of the violation are now required.
  Δ The Department is given the authority to issue administrative subpoenas to assist in conducting investigations of possible violations of the provisions of SFA Programs. In addition, the law authorizes the Department to request the Attorney General to invoke the assistance of any court of the United States for purposes of enforcement of a subpoena if necessary.
  Δ A school is now required to agree to submit any dispute involving the final denial, withdrawal or termination of accreditation to "initial" rather than "binding" arbitration.
  Δ A school may request a waiver which allows the school to submit cumulative annual reports every three years under certain conditions.
  Δ Guidance for audits of third-party servicers is found in the January 2000 Department of Education's Audit Guide, Audits of Federal Student Financial Assistance Programs at Participating Institutions and Institution Servicers.

- A phone number is provided for small businesses to call to comment on the enforcement actions of the Department of Education, call 1-888-REG-Fair (1-888-734-3247).

Chapter 12: Distance Education

Chapter 12 discusses the applicability of the SFA Program requirements to distance education programs.

- The Amendments of 1998, Public Law 105-244 (the Amendments of 1998) created a Distance Education Demonstration Program.

- This chapter also repeats the guidance on the applicability of current SFA Program requirements provided in Dear Colleague letter GEN-98-10.

We are interested in hearing your comments or suggestions on ways to make the SFA Handbook more useful. Please send your comments to:

Schools Channel
Research and Publications
Department of Education
ROB-3, Room 3060
7th and D Streets, SW
Washington, DC 20202

CHAPTER 1

Institutional and Program Eligibility

This chapter discusses the three types of institutions that are eligible to participate in the SFA Programs and the effect of program eligibility requirements on institutional eligibility.

A school that wishes to participate in the SFA Programs must demonstrate that it is eligible to participate before it can be certified for participation. A school must apply to the Department and receive approval from the Department of its eligibility to participate. Note that some schools apply for a designation as an eligible institution only (they do not seek to participate) so that students that attend the school may receive deferments on SFA Program loans, be eligible for the HOPE Scholarship tax credit, or so that the school may apply to participate in federal HEA programs other than the SFA Programs. The same application form is used to apply for both eligibility to participate and certification for participation. For more information on applying to participate, see Chapter 10.

Definitions of Eligible Institutions Cites

Title I; part A, 34 CFR Part 600 Subpart A

Nonprofit Institution:

A school that is

- *owned and operated by one or more nonprofit corporations or associations whose net earnings do not benefit any private shareholder or individual,*
- *legally authorized to operate as a nonprofit organization by each state in which it is physically located, and*
- *determined by the Internal Revenue Service to be eligible for tax-deductible contributions.*

THE THREE DEFINITIONS OF ELIGIBLE INSTITUTIONS

The institutional eligibility laws and regulations define three types of eligible institutions. Under the three definitions, a school is eligible to participate in all the SFA Programs, provided the school offers the appropriate type of eligible program. (Refer to the chart on page 2-2.) This section covers the key elements of the three definitions, giving special attention to those requirements that affect the definition of an eligible program.

Although the criteria for each of the three types of institutions differ somewhat, these eligible school definitions are not mutually exclusive. That is, a public or private nonprofit school may meet the definition of more than one type of institution.

INSTITUTIONAL CONTROL

The "control" of an institution distinguishes whether the school is public or private, nonprofit or for-profit. Under the institutional definitions, an "institution of higher education" or a "postsecondary vocational institution" can be either public or private, but is always nonprofit. A "proprietary institution of higher education" is always a private, for-profit institution.

ELIGIBLE INSTITUTION

To be eligible, all institutions must adhere to the following requirements.

Legal Authorization: Is legally authorized by the state where it offers postsecondary education to provide a postsecondary education program.

Accreditation: Is accredited by a nationally recognized accrediting agency or has met the alternative requirements, if applicable.

Admissions: Admits as regular students only persons with a high school diploma or its recognized equivalent, or persons beyond the age of compulsory attendance in the state where the institution is located.

<table>
<tr><th colspan="3"><i>Types of Institutional Control</i></th></tr>
<tr><td><i>Institution of Higher Education</i></td><td><i>Proprietary Institution of Higher Education</i></td><td><i>Postsecondary Vocational Institution</i></td></tr>
<tr><td>A public or private nonprofit educational institution located in a state*</td><td>A private, for-profit educational institution located in a state*</td><td>A public or private nonprofit educational institution located in a state*</td></tr>
<tr><th colspan="3"><i>Eligible Programs</i></th></tr>
<tr><td>(1) Associate, bachelor's graduate, or professional degree, or
(2) At least a two-year program that is acceptable for full credit toward a bachelor's degree, or
(3) At least a one-year training program that leads to a degree or certificate (or other recognized educational credential) and prepares students for gainful employment in a recognized occupation.</td><td colspan="2">Program offered: must provide training for gainful employment in a recognized occupation, and must meet the criteria of at least one category below.
(1) Provides at least a 15-week (instructional time) undergraduate program of 600 clock hours, 16 semester or trimester hours, or 24 quarter hours. May admit students without an associate degree or equivalent.
(2) Provides at least a 10-week (instructional time) program of 300 clock hours, 8 semester or trimester hours, or 12 quarter hours. Must be a graduate/professional program, or must admit only students with an associate degree or equivalent.
(3) Provides at least a 10-week (instructional time) undergraduate program of 300-599 clock hours. Must admit at least some students who do not have an associate degree or equivalent, and must meet specific qualitative standards. Note: These programs are eligible only for FFEL and Direct Loan participation.</td></tr>
<tr><th colspan="3"><i>Additional Rules</i></th></tr>
<tr><td></td><td colspan="2">Legally authorized to give (and has been giving) postsecondary instruction for at least two consecutive years (Two-Year Rule)
*See the definition of "state" on the facing page.
Special Rule: Derives no more that 90% of its revenues from the SFA Programs.
The following pages expand on the above requirements.</td></tr>
</table>

LEGAL AUTHORIZATION BY A STATE

With the exception of foreign schools (see page 2-20), an eligible institution under any of the three definitions must be located in a state. The definition of a "state" includes not only the 50 States of the Union, but also American Samoa, Puerto Rico, the District of Columbia, Guam, the Virgin Islands, and the Northern Mariana Islands. A "state" also includes the Freely Associated States, which include the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau. Generally, the determining factor is the physical location of the main campus or place of instruction. For instance, if a school's main campus is in a state, as defined above, the school can still have an additional location in a foreign country.

To qualify under any of the three institutional definitions, a school must be legally authorized by the state in which it offers an educational program to provide the program. The state's legal authorization may be provided by the licensing board or educational agency. In some cases, the school's charter is its legal authorization. In other cases, a school is considered to be legally authorized if state law does not require it to have a license or other formal approval.

Effective October 1, 1998, the Amendments of 1998 require schools to provide evidence that they have the authority to operate in a state at the time of the school's certification to participate in the SFA Programs. For more information on applying for participation in the SFA Programs, see Chapter 10.

ACCREDITATION

Generally, an institution must be accredited or preaccredited by a nationally recognized accrediting agency or association (both referred to here as agencies) to be eligible. The procedures and criteria for recognizing accrediting agencies are in Chapter 11 of this Handbook.

The Department periodically publishes a list of recognized accrediting bodies in the Federal Register, based on criteria given in 34 CFR Part 602. The list can be found on the Department's website at: http://ifap.ed.gov/dev_csb/new/agency/nsf/. Copies of this list are also available from the Department at the following address:

U.S. Department of Education
Accreditation and State Liaison
1990 K Street, N.W. (Room 7159)
Washington, DC 20006-8509

Nationally Recognized Accrediting Agency or Association:
An accrediting agency or association which the Department has recognized to accredit or pre-accredit a particular category of institution, school, or educational program in accordance with the provisions in 34 CFR Parts 602 and 603.

Preaccredited:
A status granted by a nationally recognized accrediting agency or association to a public or private nonprofit institution that is progressing towards accreditation within a reasonable period of time.

Alternatives to Accreditation

The law provides two statutory alternatives to accreditation. First, a nonprofit institution may be preaccredited by an agency or association that has been approved by the Department to grant such preaccreditation. Secondly, unaccredited public postsecondary vocational educational institutions may be eligible for SFA Program funds if accredited by a state agency that the Department determines to be a reliable authority.

Changes in Accreditation

If a school loses its primary accreditation, it is ineligible to participate in the SFA Programs and must notify the Department within 10 days.[1] This can be done on line through the electronic application. However, if a school's accrediting agency loses its recognition from the Department, the school has up to 18 months in which to obtain accreditation from another recognized agency. Other changes in accreditation may also jeopardize institutional participation. If a school changes accrediting agencies, it may be subject to termination unless the school submits to the Department all materials relating to the prior accreditation, including materials demonstrating reasonable cause for changing accrediting agencies. A school must obtain written approval from the Department for the change of accrediting agency to continue its eligibility status (see Chapter 10).

Change in primary institution-wide accreditation

If the school decides to change its institution-wide accreditation, it must notify the Department of Education when it begins the accreditation application process with a different agency. As part of the notice, the school must submit materials about its current accreditation and materials demonstrating reasonable cause for changing accreditation. If it fails to notify the Department of the proposed change to its primary institution-wide accreditation, or if the school does not provide the materials just described, the Department will not recognize the school's existing accreditation. This means the school would no longer have accredited status, and would no longer be eligible to award federal student financial aid or take part in other programs under the Higher Education Act of 1965, as amended (HEA).

Accreditation by more than one institution-wide accrediting agency

If the school decides to become accredited by more than one institution-wide accrediting agency, it must notify the Department when it begins the process of obtaining additional accreditation. As part of the notice, the school must submit to the Department, its current institution-wide accrediting agency and the prospective institution-wide accrediting agency, the reason it wishes to be accredited by more than one agency. If the school obtains the additional institution-wide accreditation and fails to notify the

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[1] An accredited or preaccredited school must agree to submit, for any dispute involving the termination of accreditation, to binding arbitration before initiating any other legal action.

Department of the reasons for the additional accreditation, the Department will not recognize the school's accredited status with either agency. This means the school would lose its accredited status and its eligibility to award federal student financial aid or take part in other programs under the HEA. If the school becomes accredited by more than one accrediting agency, it must tell Case Management and Oversight which agency's accreditation is to be used to determine school eligibility for federal student financial aid programs.

Primary Accreditor

An accrediting agency who's scope is institutional-wide rather than only programmatic. For SFA purposes, the "primary accrediting agency" is referred to as the "accrediting agency".

Dual Accreditation

If a school is accredited by two agencies at the same time, the school must designate which agency's accreditation will be used in determining institutional eligibility for SFA funds and must inform the Department of the designation. Further, the school must provide to the Department (and to both agencies involved) all materials documenting sufficient reason and cause for dual accreditation before the school adds the additional accreditation. See Chapter 11 of this chapter for more on changes in accreditation and loss of eligibility.

ADMISSIONS STANDARDS

An eligible institution may admit as regular students only persons who have a high school diploma or its recognized equivalent, or persons who are beyond the age of compulsory school attendance in the state in which the school is located.

Students who are beyond the age of compulsory attendance but who do not have a high school diploma or its recognized equivalent must meet ability-to-benefit criteria or meet the student eligibility requirements for a student who is home-schooled to be eligible for aid from the SFA Programs. (For more information on this student eligibility requirement, see *Volume 1 — Student Eligibility* .)

Home Schooling Cite:
Sec. 484(d)
34 CFR 668.32(e)

Extension of student eligibility to home-schooled students was added by the Amendments of 1998 and implemented by final regulations published October 22, 1999.

Regular Student:
A person who is enrolled (or is accepted for enrollment) in an eligible program for the purpose of obtaining a degree, certificate, or other recognized educational credential.

High School Diploma

Unless required by its accrediting or state licensing agency, the school is not required to keep a copy of a student's high school diploma or GED, which is a recognized equivalent of a high school diploma (see below). Rather, the school may rely on the student's certification that he or she has received the credential and a copy of the certification must be kept on file. This certification need not be a separate document. It may be collected on the school's admissions application. The school may also require the student to provide supporting documentation.

Recognized Equivalent of a High School Diploma

Generally, a recognized equivalent of a high school diploma is either a GED or a state certificate (received after the student has passed a state authorized test) that the state recognizes as being equivalent to a high school diploma. However, the Department recognizes that there are special cases. If a student has successfully completed at least a two-year program that is acceptable for full credit toward a bachelor's degree, the student's academic transcript is considered equivalent to a high school diploma. A student without a high school diploma who is seeking enrollment in a program of at least the associate-degree level, and who has excelled academically in high school and met formalized written admissions policies of the school, is also considered to have the equivalent of a high school diploma. These students may be eligible to receive SFA Program funds without having to meet the ability-to-benefit requirements, provided the students are no longer enrolled in high school.

A school that admits students who do not have a high school diploma or its recognized equivalent has some additional considerations. A school does not qualify as an eligible institution if, for its latest complete award year, more than 50% of its regular enrolled students had neither a high school diploma or its equivalent, unless the school provides a four-year bachelor's degree program or two-year associate degree program. A waiver of this limitation is possible for some schools. See page 2-13 for more information.

Home Study

Schools may admit only persons who

(1) have a high school diploma;

(2) have the recognized equivalent, as defined by the regulations, of a high school diploma; or

(3) are beyond the age of compulsory attendance in the state in which the institution is located. If a student is not beyond the age of compulsory attendance, a school may not admit a student unless he or she has a high school diploma or a recognized equivalent.

Many states require a certificate of completion and accept a home-study certificate as a certificate of completion while not considering a home-study certificate to be the equivalent of a high school diploma. For institutional eligibility purposes, a certificate of home study is considered the equivalent of a high school diploma only if the **student's home state specifically considers the home-study certificate as the equivalent of a high school diploma**.

If a student is below the age of compulsory attendance in the state in which the institution is located and the student's home state does not specifically consider the home-study certificate to be a high school diploma, a school may not admit the student without jeopardizing its institutional eligibility.

GED Preparatory Program Required

A school that participates in the SFA Programs and admits students without a high school diploma or its equivalent must make a GED preparatory program available to its students. (For more information see the discussion of the Program Participation Agreement in Chapter 2.)

"TWO-YEAR" RULE

To be eligible as a proprietary institution or a postsecondary vocational institution, a school must have provided continuous postsecondary instruction (and been legally authorized to do so) for at least two consecutive years. The educational program(s) offered must remain substantially the same in length and subject matter, except for changes made because of new technology or other federal agencies' requirements.

A branch campus seeking status as a main campus or free-standing institution is subject to the two-year rule. Final regulations published October 29, 1999 clarify that a branch campus must be in existence for two years after certification as a branch campus before the branch can seek certification as a main or freestanding school. A branch campus's time as a branch campus counts toward the two years.

An additional location must obtain approval from the Department to become a branch campus. The branch campus then must also satisfy the two-year rule by operating independently for two years before it may be evaluated to be considered a free-standing institution. Time as an additional location of an eligible proprietary institution or postsecondary vocational institution does not count toward the two-year rule, but time as an eligible institution of higher education or its additional location does.

Additional Location

A location of a school which is geographically a part of the main campus of the school
Cite: 34CFR 600.8

Branch Campus

A branch campus is a location of a school that is geographically apart and independent of the main campus of the school. A location is independent of the main campus if the location:

- *is permanent in nature;*
- *offers courses in educational programs leading to a degree, certificate, or other recognized educational credential;*
- *has its own faculty and administrative or supervisory organization; and*
- *has its own budgetary and hiring authority*

Branch Campus Cite

Sec. 498(j)

ADDITIONAL INSTITUTIONAL ELIGIBILITY FACTORS

Among other requirements a school becomes an ineligible institution if the school violates the 90/10 Rule (applicable to proprietary schools only), the Correspondence Course Limitation, the Correspondence Student Limitation, the Incarcerated Student Limitation, or the Ability-To-Benefit Student Limitation. In addition, a school is not eligible if it files for bankruptcy, or if the school, its owner, or its CEO is responsible for a crime involving SFA Program funds. If a school becomes ineligible because of one of these factors, the school must immediately stop awarding SFA Program funds and must comply with the requirements in 34 CFR 668.26 for a school that has lost its SFA participation (for more information on requirements when a school's SFA participation ends, see Chapter 11).

Demonstrations of Compliance

All of the "limitation" requirements and the 90/10 Rule involve certain percentage calculations, that are performed by the school either to demonstrate compliance with a requirement or to

90/10 Cite

Sec. 102
34 CFR 600.5

demonstrate eligibility for a limitation waiver. In the case of the Correspondence Course Limitation, the Correspondence Student Limitation, the Incarcerated Student Limitation, and the Ability-To-Benefit Student Limitation, a calculation performed by the school must be attested to by the certified public accountant (CPA) who prepares the school's audited financial statement or its SFA compliance audit (for more information on audits, see Chapter 11). The CPA's report must be part of the audit workpapers and must include a recalculation if a school's initial or previous calculation was in error. The CPA's attestation report must indicate whether the school's determinations (including any relevant waiver or exception) are accurate. Requirements for demonstrating compliance with the 90/10 Rule are discussed below.

For each of the limitation requirements, the school must notify the Department of the school's failure to meet a requirement, its falling within a prohibited limitation, or its ineligibility for a continued waiver, as applicable. The school's notification must occur by July 31 following the end of an award year. If a school fails to meet any of these requirements, the school loses its eligibility to participate in any SFA Program as of the last day of the most recent award year.

To regain institutional eligibility lost due to the limitation requirements, the school must demonstrate its compliance with all eligibility requirements and its ability to stay outside prohibited limits for at least one award year. Further, it must also show how its administrative practices and policies have been changed to ensure that it will not fall within prohibited limits in the future.

Proprietary institutions have 90 days after their most recently completed fiscal year has ended to report to the Secretary if they did not satisfy the 90/10 Rule for that period. Schools that fail to satisfy the 90/10 Rule lose their eligibility as of the last day of that fiscal year.

If a school becomes ineligible because it files for bankruptcy, or if the school, its owner, or its CEO is responsible for a crime involving SFA Program funds, the school must notify the Department within 10 days. The loss of eligibility is effective as of the date of the bankruptcy, or the date the school or individual pleads to or is found responsible for the crime, as applicable. A loss of eligibility for these two reasons is permanent. The institution's eligibility cannot be reinstated.

The 90/10 rule (formerly the 85/15 rule)

To be eligible for SFA participation, a proprietary institution may derive no more than 90% of its revenues from the SFA Programs.

Previously, a proprietary institution was permitted to derive no more than 85% of its revenues from the SFA Programs. However, the Amendments of 1998 changed this amount to 90%. Final regulations were published on October 29, 1999.

As specified in 34 CFR 600.5(d), a school must determine its revenue percentages using the following formula for its latest complete fiscal year:

$$\frac{\text{SFA Program Funds (except SSIG or FWS}^{*}\text{) used for tuition, fees, and other institutional charges to students}}{\text{The sum of revenues generated by the school from: (1) tuition, fees, and other institutional charges for students enrolled in eligible training programs; plus (2) school activities}^{**}\text{ necessary for the education or training of students enrolled in those eligible programs}}$$

*FWS funds must be included in the 90/10 formula to the extent that a student has authorized the school to apply these funds to his or her institutional charges

**to the extent not included in tuition, fees, and other institutional charges

The Cash Basis of Accounting

A Proprietary institution of higher education must use the cash basis of accounting in determining whether it satisfies the 90/10 rule. Under this method of accounting, all revenue is recognized when received.

For the purpose of calculating the qualifying percentages under the 90/10 Rule, revenue is an inflow or other enhancement of assets to an entity, or a reduction of its liabilities resulting from the delivery or production of goods or services. An institution may recognize revenue only when the institution receives cash, *i.e.*, when there is an inflow of cash. As a result, in order for an institution to recognize revenue under the cash basis of accounting, that **revenue must represent cash received from a source outside the institution**.

Exclusions from Fraction

In determining whether a school satisfies the 90/10 Rule, the totals used in the fraction do not include refunds paid to or on behalf of students who have withdrawn, dropped out, been expelled, or otherwise failed to complete the period of enrollment. Charges for books, supplies, and equipment are not included in the fraction unless the amount is part of the tuition, fees, or other institutional charges.

SFA Program Funds for Institutional Charges

In figuring what SFA Program funds were used to pay tuition, fees, and other institutional charges, a school **must** assume that any SFA Program funds disbursed (or delivered) to or on behalf of a student were used for such costs, **unless** those costs were otherwise paid by

- grant funds provided by non-federal public agencies,
- grant funds provided by independent private sources,
- funds from qualified government agency job training contracts, or
- funds received from a prepaid State tuition plan.

Revenues

In figuring revenues generated by school activities, a school may include only revenue from activities that are conducted on campus or at a facility under the control of the school, that are performed under the supervision of a faculty member, and that are necessary for the training of its students who are enrolled in an eligible program.

When an institution makes a loan to a student, it does not receive cash from an outside source. Accordingly, cash revenue from institutional loans is recognized only when those loans are repaid, because that is when there is an inflow of cash from an outside source. Loan proceeds from institutional loans that were disbursed to students may not be counted in the denominator of the fraction, because these "proceeds" neither generate nor represent actual inflows of cash. The school may include only loan repayments it received during the appropriate fiscal year for previously disbursed institutional loans.

Institutional scholarships are not revenues generated by the school (unless they are donated by an unrelated or outside third party). **Exception:** a school may use donations from a related party to create restricted accounts for institutional scholarships, but only the amount earned on the restricted account and used for scholarships would count as revenue in the denominator of the calculation. Institutional grants in the form of tuition waivers do not count as revenue because no new revenue is generated. Similarly, internal transfers of cash among accounts are not considered revenue because they do not represent an inflow of cash to the institution.

Note: For schools submitting their financial statements prior to July 2000, the Department does not expect to use its enforcement authority, absent unusual circumstances, against schools using valid institutional loans and scholarships, solely on the decision that those loans or scholarships do not comply with cash basis accounting requirements.

Additional guidance on 90/10 and institutional loans and scholarships can be found in Dear Partner Letter GEN-99-33 and Dear CPA Letters: CPA-99-01 and CPA-99-02.

Funds held as credit balances in institutional accounts can not be counted in the 90/10 formula. However, once funds held as credit balances are used to satisfy institutional charges, they would be counted in both the numerator and the denominator of the formula.

Revenue generated from the sale of non-recourse institutional loans to an unrelated third party would be counted as revenue in the denominator of the 90/10 calculation to the extent that the revenues represent actual proceeds from the sale. The sale of institutional loan receivables is distinguishable from the sale of an institution's other assets because receivables from institutional loans are produced by transactions that generate tuition revenue. Tuition revenue represents income from the major service provided by an institution. That would not be true in the case of the sale of other institutional assets.

Time Period Covered

As mentioned above, a proprietary institution must determine whether it satisfied the 90/10 Rule during its most recently completed fiscal year. For example, for schools using a calendar year as their fiscal year, their most recently completed fiscal year is the one that ended on December 31, 1998. For those schools using the award year as their fiscal year, their most recently completed fiscal year will be the one that ends on June 30, 1999.

Failure to Satisfy the 90/10 Rule

Schools that fail to satisfy the 90/10 Rule lose their eligibility on the last day of that fiscal year. As mentioned earlier, the school must immediately stop awarding SFA Program funds and comply with the provisions of 34 CFR 668.26. Schools have 90 days after their most recently completed fiscal year has ended to report to the Secretary if they did not satisfy the 90/10 Rule for that period.

Notification

A proprietary school is required to disclose the percentage of its revenues derived from the SFA Programs (that the school received during the fiscal year covered by the audit) as a footnote to its audited financial statement (for information on audited financial statements, see Chapter 11).

A school must notify the Department of its failure to satisfy the 90/10 Rule at one of the following addresses:

By U.S. Postal Service

U.S. Department of Education
Case Management and Oversight
P.O. Box 44805
L'Enfant Plaza Station
Washington, DC 20026-4805

By commercial overnight mail/courier delivery

U.S. Department of Education
Case Management and Oversight
7th and D Streets, SW
GSA Building, Room 5643
Washington, DC 20407
Phone: (202) 205-1936 (for this purpose)

By Internet

IPOS@ed.gov

Correspondence Course Limitation

A school is not eligible for SFA Program participation if, during the school's latest complete award year, more than 50% of its courses are taught through correspondence.[2]

In calculating the percentage of "correspondence courses," a correspondence course can be either a complete educational program offered by correspondence or a single course offered by correspondence that is part of a larger, on-campus (residential) program. Regardless of how many times a course or program is offered during the award year, it is counted only once. (A course offered both through correspondence and on campus is counted as two courses when determining the total number of courses offered by the school.) The school's Correspondence Course calculation must be attested to by a CPA, as discussed previously.

This requirement does not apply to a school that mainly provides vocational adult education or job training (as defined under the Carl D. Perkins Vocational and Applied Technology Education Act).

For information about a student's eligibility for SFA Program funds while enrolled in a correspondence course and cost of attendance information for correspondence courses, see *Volume 1 — Student Eligibility*.

Correspondence Student Limitation

A school is also not eligible for SFA Program participation if, for its latest complete award year, 50% or more of its regular students are enrolled in correspondence courses. "Telecommunications courses" may be considered to be correspondence courses (see the definitions on this page). The rules for calculating this percentage are the same as given previously for the calculation of the correspondence course percentage. The calculation should reflect a straight "head count" of students. That is, each regular student must be counted regardless of full-time or part-time attendance and will be counted only once during an award year, regardless of withdrawal and reenrollment. (Students who enrolled, withdrew, and subsequently received a full refund should not be included in the count.) The school's Correspondence Student calculation must be attested to by a CPA, as discussed previously.

This requirement is waived for a school that offers a two-year associate degree or four-year baccalaureate degree program if the school demonstrates that the students enrolled in its correspondence courses receive no more than 5% of the total SFA Program funds received by all of the school's students. This requirement also does not apply to an institution that mainly provides vocational adult education or job training (as defined under the Carl D. Perkins Vocational and Applied Technology Education Act).

Correspondence Course:

A home study course provided to students who are not physically attending classes at the school; a course that is part residential and part correspondence. (Includes video courses unless students physically in attendance at the school receive the same video instruction in the same award year.)

Telecommunications Course:

A course offered principally through television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, satellite, or audio or computer conferences. (Includes video courses if students physically attending the school also receive the video course in the same award year.)

Distance Education

For information on the Distance Education, see Chapter 12.

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[2] A telecommunications course is considered to be a correspondence course if the sum of telecommunications courses and other correspondence courses provided by the school during its latest complete award year was equal to or more than 50% of the total courses provided that year.

Incarcerated Student Limitation

A school is not eligible for SFA Program participation if, for its latest complete award year, more than 25% of its regular students are incarcerated. If requested by the school, the Department may waive this limitation for a public or nonprofit school offering a two-year associate degree, or a four-year baccalaureate degree program. In addition final regulations published October 29, 1999 included the provision of the Amendments of 1998 that expands this waiver to include public or nonprofit institutions providing two-year or four-year programs of instruction that lead to postsecondary diplomas.

For a school offering only two-year or four-year programs that lead to associate or bachelor's degrees, respectively, the waiver applies to all programs offered at the school. However, if the school offers other types of programs, the waiver would apply to any of the school's two-year bachelor's or four-year associate degree programs, and also to any other programs in which the incarcerated regular students enrolled that have a 50% or greater completion rate. (The calculation of this completion rate is specified in Section 600.7(e)(2) of the Institutional Eligibility regulations and must be attested to by a CPA, as discussed previously.) If granted, the waiver is effective as long as the school continues to meet the waiver requirements each award year. (For information on the eligibility of incarcerated students for SFA assistance, see *Volume 1 — Student Eligibility*.)

Note: A school may request the waiver using the Application, by answering the questions in "section G" and explaining in question 69.

Ability-to-benefit Limitation

A school does not qualify as an eligible institution if, for its latest complete award year, more than 50% of its regular enrolled students had neither a high school diploma nor its equivalent (referred to here as ability-to-benefit students), unless the school provides a four-year bachelor's degree program or two-year associate degree program.

The Department may waive this limitation for a nonprofit school if the school demonstrates, to the Department's satisfaction, that it exceeds the limitation because it serves significant numbers of ability-to-benefit students through government agency contracts, such as a contract under the Job Training Partnership Act. A school will not be granted this waiver if more than 40% of the school's enrolled regular students do not have a high school diploma or equivalent and are not served through contracts with federal, state, or local government agencies. The purpose of the contracts must be to provide job training to low-income individuals who are in need of the training. If granted, the waiver extends as long as the school continues to meet the waiver requirements each award year. The school's "Ability-To-Benefit" calculation must be attested to by a CPA, as discussed previously.

Incarcerated Student

An "incarcerated student" is a student who is serving a criminal sentence in a federal, state, or local penitentiary, prison, jail, reformatory, work farm or other similar correctional institution. (Does not include detention in a halfway house, home detention, or weekend-only sentences.)

Incarcerated Student Limitation Cite

Sec. 102
34CFR 600.7(a)(1)(iii) and 600.7(c)

Bankruptcy

A school is not an eligible institution if the school, or an affiliate of the school that has the power, by contract or ownership interest, to direct or cause the direction of the management of policies of the school, files for relief in bankruptcy, or has entered against it an order for relief in bankruptcy.

Crimes involving SFA Program Funds

A school is not an eligible institution if the school, its owner, or its chief executive officer:

- has pled guilty to, has pled nolo contendere to, or is found guilty of, a crime involving the acquisition, use, or expenditure of SFA Program funds; or
- has been judicially determined to have committed fraud involving SFA Program funds.

Cite
34 CFR 668.8

PROGRAM ELIGIBILITY REQUIREMENTS

To qualify as an eligible institution, a school must offer at least one eligible program. Not all programs at an eligible institution will necessarily be eligible, but at least one of the programs at the school must meet the eligible program requirements.

Determination of Program Eligibility

Generally, a student must be enrolled in an eligible program to receive SFA funds (for more information, see *Volume 1 — Student Eligibility*). Because a school's eligibility does not necessarily extend to all its programs, the school must ensure that a program is eligible before awarding SFA Program funds to students in that program. The school is ultimately responsible for determining that a program is eligible. In addition to determining that the program meets the eligible program definition, the school should make certain that the program is included under the notice of accreditation from a nationally recognized accrediting agency (unless the agency does not require that particular programs be accredited). The school should also make certain that it is authorized by the appropriate state agency to offer the program (if the state licenses individual programs at postsecondary institutions). See the chart on page 2-2.

A school's eligibility extends to all eligible programs and locations that were identified on the school's application for participation, unless the Department determines that certain school programs or locations did not meet the eligibility requirements. In general, the school's eligible non-degree programs and locations are specifically named on the approval notice (Eligibility and Certification Approval Report [ECAR]). Additional locations and programs may be added later (see Chapter 10).

If a program offered through telecommunications or continuing education meets the definition of an eligible program, students enrolled in that program must be considered for SFA Program assistance on the same basis as students enrolled in other eligible programs that are offered through traditional modes. If a program is offered through correspondence meets the definition of an eligible program, students enrolled in that program will be considered eligible with the limitation outlined in Chapter 12.

It is not uncommon for a school to offer programs that meet different eligible program definitions. For example, a school that offers a bachelor's degree program (qualifying the school as an institution of higher education) may also offer a certificate or diploma training program that is eligible under a definition that qualifies the school as a postsecondary vocational institution.

Types of Eligible Programs at an Institution of Higher Education

A school qualifies as an institution of higher education if (in addition to meeting all other eligibility requirements, including being a nonprofit school) it offers a program that leads to an associate, bachelor's, professional, or graduate degree. For such programs, there are no minimum program length requirements.

A school may also qualify as an institution of higher education if it offers a program of at least two academic years in duration that is acceptable for full credit toward a bachelor's degree, or if it offers a program of at least one academic year in duration that leads to a certificate, degree, or other recognized credential and prepares students for gainful employment in a recognized occupation.

Recognized Occupation

A "recognized occupation" is one that is listed in the "occupational division" of the Dictionary of Occupational Titles (published by the U.S. Department of Labor) or one that is considered by the Department, in consultation with the Department of Labor, to be a recognized occupation.

Types of Eligible Programs at a Proprietary or Postsecondary Vocational Institution

There are three types of eligible programs that will qualify an otherwise eligible school as a proprietary institution or a postsecondary vocational institution. All of these programs are required to have a specified number of weeks of instruction, and must provide training that prepares a student for gainful employment in a recognized occupation.

1) The first type of eligible program is one that must provide at least 600 clock hours, 16 semester or trimester hours, or 24 quarter hours of undergraduate instruction offered during a minimum of 15 weeks of instruction. The program may admit as regular students persons who have not completed the equivalent of an associate degree.

2) The second type of eligible program is one that must provide at least 300 clock hours, 8 semester hours, or 12 quarter hours of instruction offered during a minimum of 10 weeks of instruction. The program must be a graduate or professional program or must admit as regular students only persons who have completed the equivalent of an associate degree.

3) The third type of program is known as the "short-term program." A short-term program qualifies for the FFEL and Direct Loan programs only. A short-term program must provide at least 300

but less than 600 clock hours of instruction offered during a minimum of 10 weeks of instruction. The program must admit as regular students some persons who have not completed the equivalent of an associate degree. These programs must also satisfy the qualitative factors for completion rates, placement rates, program length, and period of existence of the program. Specifically, these programs must:

- have verified completion and placement rates of at least 70%,
- not be more than 50% longer than the minimum training period required by the state (or federal agency), if any, for the occupation for which the program of instruction is intended, and
- have been in existence for at least one year.

For the purpose of demonstrating compliance with these qualitative factors, a school must calculate the completion and placement rates for the award year, as explained later. The CPA who prepares the school's compliance audit report must attest to the accuracy of the school's calculation of completion and placement rates.

Completion Rate Calculation

Number of regular students who received credential for successfully completing the program within 150% of the length of the program

Number of regular students enrolled for the year
- number of regular students who withdrew with a 100% refund
- number of regular students enrolled at the end of the year

* less any permitted administrative fee

Placement Rate Calculation

Number of students who obtained employment* within 180 days of receiving credential, and who are employed (or have been employed) for at least 13 weeks following receipt of credential

Number of students who received credential for successfully completing the program

* in the recognized occupation for which they were trained or in a related comparable occupation

The school must document the employment of any student it includes as "employed" in the placement rate calculation. Examples of such documentation include, but are not limited to, a written statement from the employer, signed copies of state or federal income tax forms, or written evidence of payments of Social Security taxes.

The school must reasonably determine whether a related occupation is comparable. For instance, for a student who was trained as an auto mechanic, it is reasonable to determine that a job as a boat mechanic is comparable. However, for a person trained in retail sales management, a counter-service job at a fast-food restaurant is not comparable.

Exceptions to Eligible Program Definition

Note that there are two cases (certain types of preparatory coursework and teacher-certification programs) where students may receive FFEL or Direct Loan funds for enrollment in a program that does not meet the eligible program definition. (For more information, see *Volume 1 — Student Eligibility*)

WEEKS OF INSTRUCTION AND THE 12-HOUR RULE

The three types of eligible programs discussed above, that qualify an otherwise eligible school as a proprietary institution or as a postsecondary vocational institution, are required to have a specified number of weeks of instruction. Definitions for a "week of instruction" and for a "week of instructional time" for the academic year definition are similar. (See the discussion of academic year in Chapter 2.)

Week of Instruction

For all programs except those measured in credit hours without standard terms (semesters, trimesters, or quarters), a "week of instruction" is any seven-day period in which at least one day of regularly scheduled instruction, examination, or preparation for examinations occurs.

Instruction does not include periods of orientation, counseling, vacation, or other activity not related to class preparation or examination.

For educational programs measured in credit hours without standard terms, a week of instruction must include at least 12 hours of instruction, examinations, or preparation for examination within a consecutive seven-day period.

Minimum Weeks and Hours

The 12-hour rule in effect requires a school to demonstrate that certain programs have not only a minimum number of weeks, but also a minimum number of hours. For example, in order for a program to meet the eligible program definition that requires at least 600 clock hours, 16 semester or trimester hours, or 24 quarter hours of instruction, examinations, or preparation for examinations offered during a minimum of 15 weeks of instruction, the program must meet for a minimum of 15 calendar weeks over which a minimum of 180 hours of instruction, examinations, or preparation for examinations occur (12 hours of instruction, examinations, or preparation for examinations for 15 calendar weeks).

A school that wants to set its program to be only 15 calendar weeks long would therefore have to meet an average of 12 hours per week for the 15 calendar week period in order for the program to be eligible. A school with a program that meets less frequently than 12 hours a week would have to meet for enough weeks to provide 180 hours of instruction, examinations, or preparation for examinations. For example, a program meeting 6 hours per week would have to be 30 calendar weeks long in order to be eligible under this provision.

Treatment of Holidays

Because the 12-hour rule does not require a school to offer instruction, examinations, or preparation for examinations on specific days, an institution may not include a holiday for these calculations unless regularly scheduled instruction, examinations, or preparation for examinations occurs on that day.

ADDITIONAL ELIGIBLE PROGRAM REQUIREMENTS

Several SFA Programs have additional requirements that an educational program must meet to be eligible. For example, only undergraduate educational programs are eligible under the Pell Grant and FSEOG programs. Further, correspondence programs are not eligible unless they meet the general requirements for an eligible program and are required for the student's regular program of study leading to a degree. As discussed earlier in this Chapter, certain telecommunications courses may be considered correspondence courses and therefore may be subject to the same requirements.

ESL Programs

A program that consists solely of English as a Second Language (ESL) instruction is eligible only for Pell Grant participation. It must meet the general requirements for an eligible program (for example, it must lead to a degree or other credential) and may admit only students who need instruction in English to be able to use the knowledge, training, or skills they already have. The school must document its determination that the ESL instruction is necessary for each student enrolled. A school may request an eligibility determination from the Department for an ESL Program.

A student also may receive SFA Program funds for ESL coursework that is part of a larger eligible program. In this case, the ESL coursework is treated as remedial coursework. For more information, see *Volume 1 — Student Eligibility.*

Study Abroad Programs

Study abroad courses are eligible for SFA Program funds, regardless of whether they are required for the student's program of study, as long as they are accepted for credit in the student's program (provided that the requirements meet the consortium and contractual requirements discussed in Chapter 9). The law also requires schools to notify study-abroad students of the availability of such assistance and to certify on the new Program Participation Agreement that they will not deny SFA funds to such students.

Flight Schools

Under the FFEL Programs, a flight school program must maintain current valid certification by the Federal Aviation Administration to be eligible.

CLOCK HOUR/CREDIT HOUR CONVERSIONS

The clock hour/credit hour requirements affect both program eligibility, and the determination of the amount of SFA Program funds a student who is enrolled in the program may receive.

Schools must determine whether an undergraduate program measured in credit hours qualifies as an eligible program in credit hours *for SFA purposes* after using the required conversion formula unless:

- the program is at least two academic years in length and provides an associate, bachelor's, or professional degree (or a degree that the Department has determined to be equivalent to one of these degrees), or
- each course within the program is acceptable for full credit toward one of these degrees at the school, and the degree requires at least two academic years of study.

Note that the exemption for programs that lead to a degree that is equivalent to an associate, bachelor's, or professional degree program of at least two years does not permit a school to ask for a determination that a *nondegree* program is equivalent to a degree program.

Also, public or private nonprofit hospital-based diploma schools of nursing are exempt from using the clock-to-credit hour conversion formula to calculate awards for the SFA Programs.

To determine the number of credit hours in a program for SFA purposes, schools must use the appropriate formula.

For a semester or trimester hour program

$$\frac{\text{Number of clock hours in the credit-hour program}}{30}$$

For a quarter hour program

$$\frac{\text{Number of clock hours in the credit-hour program}}{20}$$

The school must use the resulting number of credit hours to determine if a program is eligible under the eligible program requirements explained on pages 2-15 to 2-17. For a program to qualify as eligible by providing at least 16 semester or trimester credit hours or 24 quarter credit hours, the program must include at least

Clock Hour/Credit Hour Conversion Example

Sternberg University (SU) states that a two-year nondegree program measured in semester credit hours is 16 credit hours per semester. Courses within the program are not creditable toward a degree at SU. SU determines that there are 330 clock hours in the first and second semesters, and 390 in the third and fourth semesters. By applying the conversion formula, the school determines that the number of credit hours for SFA purposes is 11 for the first two semesters, and 13 for the last two semesters.

$$\frac{330 \text{ clock hours}}{30} = 11 \text{ credit hours}$$

$$\frac{390 \text{ clock hours}}{30} = 13 \text{ credit hours}$$

Total clock hours in the program is 1440. Because the program is longer than 15 weeks and contains more than 600 clock hours of instruction, the program remains an eligible program, provided it is otherwise eligible (see page 1-15). However, for the first two semesters of the program, students are eligible for payment for only 11 credit hours of instruction. Because this is less than the full-time student minimum of 12 credit hours, students who attend the first two semesters are eligible to be paid for only three-quarter time attendance.

600 clock hours of instruction. For a program to qualify as eligible by providing at least 8 semester or trimester credit hours or 12 quarter credit hours, the program must include at least 300 clock hours of instruction. Excused absences are not included in the formula.

Because the results of these formulas determine the eligibility of a program, the resulting number of credit hours may not be rounded upward.

If a school applies the appropriate formula and finds that a program is eligible, the converted credit hours are used to determine the amount of SFA funds that a student who is enrolled in the program is eligible to receive under the Pell Grant, FFEL, and Direct Loan programs. If, after applying the formula, the number of credit hours in the program has decreased, a student's enrollment status could change resulting in a decrease in SFA eligibility under these programs.

A student's period of attendance is measured according to several commonly accepted academic standards. A clock hour is based on an actual hour of attendance, though each hour may include a 10-minute break. Credit hours are typically based on two hours of homework for each hour of class attendance.

A school is not permitted to count more than one clock hour per 60-minute period; in other words, a school may not schedule several hours of instruction without breaks, and then count clock hours in 50-minute increments. The result would be that seven hours of consecutive instruction would count as 8.4 clock hours (420 minutes ÷ 50 minutes = 8.4 hours). Seven real-time attendance hours may not count for more than seven clock hours.

Foreign Medical School Cites
Sec 102(a)(2)
34 CFR 600.51

Foreign Medical School:
A school that is not located in a state, and is qualified and listed as a medical school in the most current World Directory of Medical Schools, published by the World Health Organization (WHO).

FOREIGN SCHOOLS ELIGIBLE FOR FFEL PROGRAMS

In general, by law, a foreign school can participate in the FFEL Programs if the foreign school is comparable to an institution of higher education (as defined earlier in this section) and has been approved by the Department. Additionally, the regulations added specific requirements for foreign medical schools. The Amendments of 1998 as implemented in regulations published October 29, 1999 added special eligibility provisions for foreign veterinary schools.

Foreign Medical Schools

To be eligible for FFEL participation, a foreign medical school must meet the same requirements as other foreign schools and must also

- provide, and require its students to complete, a medical program of clinical and classroom instruction not less than 32 months long that is supervised closely by members of the school's faculty and that is provided either

  - Δ Outside the U. S., in facilities adequately equipped and staffed to afford students comprehensive clinical and classroom medical instruction, or
  - Δ In the U. S., through a training program for foreign medical students that has been approved by all medical licensing boards and evaluating bodies whose views are considered relevant by the Department;

- have graduated classes during each of the two years preceding the school's application for eligibility;

- for the above-mentioned medical program, employ only faculty members whose credentials are equivalent to the credentials of faculty teaching similar courses in U.S. medical schools; and

- for a public or private nonprofit school, be accredited by a recognized agency, or for all other schools, by an authorized agency whose standards have been determined by a panel approved by the Department to be comparable to U.S. standards of accreditation for medical schools.

In addition, the law specifies the following requirements for foreign medical schools

- at least 60% of the full-time regular students enrolled in the previous year and 60% of the most recent graduates must be other than U.S. citizens or nationals, permanent residents, or eligible noncitizens of the United States, and

- at least 60% of the students and graduates (for the past three years) who took any step of an exam from the Educational Commission for Foreign Medical Graduates (ECFMG)—including the ECFMG English test—in the previous year must have received a passing score.

A school not meeting all the 60 percent requirements can still be eligible if

- the school's clinical training program was approved by a state as of January 1, 1992 and is currently approved; or

- the school's students complete their clinical training at an approved veterinary school located in the United States (this provision was added by the Amendments of 1998).

Continued eligibility is dependent upon annual submission of the data and information that demonstrates compliance with these 60% requirements (or the exception).

Exception: A student who was continuously enrolled at the school before the school lost eligibility, may receive an FFEL program loan for attendance at that school for the following academic year if the student received an FFEL program loan while in attendance at the school while it was eligible.

Additional criteria for determining whether a foreign veterinary school is eligible to apply to participate in the FFEL programs:

A foreign veterinary school is eligible to apply to participate in the FFEL programs if, in addition to satisfying the criteria for foreign medical schools (except the criterion that the school be public or private nonprofit), either –

a. The veterinary school's clinical training program was approved by a State as of January 1, 1992 and is currently approved by that State; or
b. The Veterinary school's students complete their clinical training at an approved veterinary school located in the U. S.

REPORTING INFORMATION ON FOREIGN SOURCES

Federal law requires certain postsecondary schools (whether or not the school is eligible to participate in the SFA Programs) to report ownership or control by foreign sources. Federal law also requires these postsecondary schools to report contracts with, or gifts from the same foreign source that, alone or combined, have a value of $250,000 or more for a calendar year. These reports must be filed with the Department by the January 31 or July 31 (whichever is sooner) after the date of receipt of the gifts, date of the contract, or date of ownership or control. The January 31 report should cover the period July 1-December 31 of the previous year, and the July 31 report should cover January 1-June 30 of the same year.

Contract:
Any agreement for the acquisition by purchase, lease, or barter of property or services for the direct benefit or use of either of the parties.

Gift:
Any gift of money or property.

Foreign School Reporting Cite
Sec. 117

Who Must Report?

A school (and each campus of a multicampus school) must report this information if the school

- is legally authorized to provide a program beyond the secondary level within a state,
- provides a program that awards a bachelor's degree or a more advanced degree, or provides at least a two-year program acceptable for full credit toward a bachelor's degree,
- is accredited by a nationally recognized accrediting agency, and
- is extended any federal financial assistance (directly or indirectly through another entity or person), or receives support from the extension of any federal financial assistance to the school's subunits.

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Contents of Disclosure Report

Each disclosure report to the Department must contain

- for gifts received from or contracts entered into with a foreign source other than a foreign government, the aggregate dollar amount of the gifts and contracts attributable to a particular country;[3]

- in the case of a school that is owned or controlled by a foreign source, the identity of the foreign source, the date on which the foreign source assumed ownership or control, and any changes in program or structure resulting from the change in ownership or control;

- for gifts received from or contracts entered into with a foreign government, the aggregate amount of the gifts and contracts received from each foreign government;

- for restricted or conditional gifts received from or restricted or conditional contracts entered into with a foreign source (other than a foreign government), the amount, date of receipt of the gift or date of the contract, and description of the conditions and restrictions;

- for restricted or conditional gifts received from, or restricted or conditional contracts entered into with a foreign government, the amount, the date of receipt of the gift or date of the contract, a description of the conditions or restrictions, and the name of the foreign government.

Alternative Reporting

In lieu of the reporting requirements listed above:

- If a school is in a state that has substantially similar laws for public disclosure of gifts from, or contracts with, a foreign source, a copy of the report to the state may be filed with the Department. The school must provide the Department with a statement from the appropriate state official indicating that the school has met the state requirements.

- If another department, agency, or bureau of the Executive Branch of the federal government has substantially similar requirements for public disclosure of gifts from, or contracts with, a foreign source, the school may submit a copy of this report to the Department.

Restricted or conditional gift or contract:

Any endowment, gift, grant, contract, award, present, or property of any kind which includes provisions regarding

- *the employment, assignment, or termination of faculty;*
- *the establishment of departments, centers, research or lecture programs, or new faculty positions;*
- *the selection or admission of students; or*
- *the award of grants, loans, scholarships, fellowships, or other forms of financial aid restricted to students of a specified country, religion, sex, ethnic origin, or political opinion.*

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[3] The country to which a gift or a contract is attributable is the country of citizenship; or, if unknown, the principal residence for a foreign source who is a "natural person" and the country of incorporation, or, if unknown, the principal place of business for a foreign source which is a legal entity.

Where to Report Foreign Gift Information

Foreign Gift information must be sent to: Case Management and Oversight using the electronic application. The specific information about the Foreign Gifts must be reported in question 69 (section K).

If a school fails to comply with the requirements of this law in a timely manner, the Department is authorized to undertake a civil action in federal district court to ensure compliance. Following a knowing or willful failure to comply, a school must reimburse the Treasury of the United States for the full costs of obtaining compliance with the law.

All information provided by schools under this law is open to inspection and duplication by members of the public.

SOLOMON-POMBO AMENDMENT

"Dear Colleague" Letter GEN-98-3, published in January 1998 informed schools of the effect of the Solomon-Pombo Amendment on the SFA Programs.

The "Solomon-Pombo Amendment" was enacted on September 30, 1996, as part of the Omnibus Consolidated Appropriations Act, 1997 (Public Law 104-208). This amendment provided that federal funds could not be made available by contract or by grant to schools that were found to have denied or restricted access to military recruiters, or have denied or restricted the establishment, maintenance or efficient operation of a Senior Reserve Officer Training Corps (ROTC) unit.

At the end of October 1999, language was added to the Defense Department's fiscal-2000 spending bill that exempts student aid from those federal funds that can be cut off by the Act. Therefore, the Solomon-Pombo act no longer affects student aid programs.

General Participation Requirements

CHAPTER 2

A school that participates in the SFA Programs must meet certain requirements for participation. Participation standards are important because all SFA funds received by a participating school are held in trust by that school for the intended student beneficiaries (except for allowed administrative expense reimbursement). This chapter explains many of the institutional participation requirements. Additional specific participation standards are discussed in the following chapters.

If the Department determines that a school has met the eligibility requirements (discussed in Chapter 1), it then evaluates the school's financial responsibility and whether the school is administratively capable of providing the education it promises and of properly managing the SFA Programs. These evaluations are used to determine whether the school may be certified for participation in the SFA Programs. For more information on administrative capability and financial responsibility, see Chapters 3 and 4, respectively.

Once a school is certified by the Department to participate in the SFA Programs, it is bound by the requirements of those programs. To begin its participation, a school must enter into a program participation agreement.

THE PROGRAM PARTICIPATION AGREEMENT

An eligible school must enter into a Program Participation Agreement (PPA) with the Department to participate in the following programs: Pell Grant, Federal Supplemental Educational Opportunity Grant (FSEOG), Federal Work-Study (FWS), Federal Perkins Loan (Perkins), and Federal Family Education Loan (FFEL). Currently, a school that participates in the Direct Loan Program does so through an addendum to the PPA.

Program Participation Agreement Cites
Sec. 487, 34 CFR 668.14

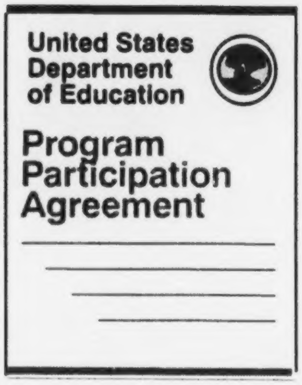
Purpose and Scope of the PPA

Under the PPA, the school agrees to comply with the laws regulations, and policies governing the SFA Programs. After being certified for SFA Program participation, the school must administer SFA Program funds in a prudent and responsible manner. Under certain circumstances, for example, when a school stops providing education, a school's PPA automatically terminates (for more information, see Chapter 11.)

PPA Requirements

The PPA lists some of the basic administrative requirements of SFA participation. Some of these are discussed in more detail in this or other areas of this Handbook, as noted below:

1. The school will provide timely information on its administrative capability and financial responsibility to the Department, and to the appropriate state, guaranty, and accrediting agencies. (Chapters 3 and 4)



United States
Department
of Education

Program
Participation
Agreement

2. If the school advertises job placement rates to attract students, it must provide a prospective student with any relevant information on state licensing requirements for the jobs for which the offered training will prepare the student. Also, the school must provide a statement disclusing the most recent available data concerning employment statistics, graduation statistics and other information to substantiate the truthfulness of the advertisements.

3. The school cannot deny SFA funds on the grounds that a student is studying abroad if the student is studying in an approved-for-credit program. (Chapters 1 and 9)

4. To begin participation in the FFEL Programs (or if a school changes ownership or changes its status as a parent or subordinate institution), the school must develop a default management plan for approval by the Department and must implement the plan for at least two years. (Chapter 3 and *Volume 8 — FFEL/DL*.

   The Higher Education Amendments of 1998, Public Law 105-244 (the Amendments of 1998) provide that a school is exempt from submitting a default management plan if (a) the parent institution and the subordinate institution both have a cohort default rate of 10 percent or less and (b) the new owner of the parent or subordinate institution does not own, and has not owned, any other school with a cohort default rate over 10 percent.

5. The school must acknowledge the authority of the Department and other entities to share information regarding fraud, abuse, or the school's approval to participate in the SFA Programs. (Chapter 11)

6. The school may not knowingly employ or contract with (in the administration of or receipt of SFA funds) any individual, agency, or organization that has been convicted of or pled guilty or nolo contendre to a crime or was judicially determined to have committed fraud involving the acquisition, use or expenditure of Federal, State or local government funds or has been administratively or judicially determined to have committed fraud or any other material violation involving federal, state or local government funds.

7. The school must, in a timely manner, complete surveys under the Integrated Postsecondary Education Data System (IPEDS) or any other data collection effort of the Department.

8. The school cannot penalize in any way a student who is unable to pay institutional costs due to compliance with the SFA Program requirements, or due to a delay in federal aid disbursement caused by the school.

9. The school cannot pay, nor contract with any entity that pays, commissions or other incentives based directly or indirectly on securing enrollment or financial aid (except when recruiting foreign students ineligible for SFA Program funds) to persons engaged in recruiting, admission, or financial aid administration.

10. The school must comply with the requirements of the Department, as well as those of accrediting agencies. (Chapter 1)

11. The school must comply with the requirements for the return of Title IV funds when a student withdraws. (Chapter 6)

12. Schools cannot charge for processing or handling any application or data used to determine a student's SFA eligibility. For instance, the school may not charge (or include in the student's cost of attendance) a fee to certify a loan application, complete a deferment form, process a Pell Grant payment, verify an application, or send or request a financial aid transcript.

13. A student may always use the Free Application for Federal Student Aid (FAFSA) to apply for SFA Program funds. However, a school may require additional data that are not provided on the federal form to award institutional or state aid. Institutional charges for collecting such data must be reasonable and within marginal costs.

The Amendments of 1998 moved and slightly modified the specific requirements for reporting data concerning athletically related student aid that were found in the Program Participation Agreement section of the law to the Equity in Athletics Disclosure Act (EADA) section of the law (see Chapter 7 for more information). The PPA requirements now state that a school must comply with the EADA reporting requirements.

Cite
34 CFR 668.27

The Amendments of 1998 added a new PPA requirement. The new provision requires a school to make a good faith effort to distribute voter registration forms unless the school is located in a state that has in effect the motor vehicle-voter registration provision of the National Voter Registration Act. Schools are to request the forms from the state 120 days prior to the deadline for registering to vote within the state. A school must make an effort to distribute the forms to each student attending the school, and must make the forms widely available to students who are enrolled in a degree or certificate program.

This paragraph applies to elections for general and special elections for Federal Office including the election for Governor or other chief executive within the state. Schools in Puerto Rico are not subject to this provision because Puerto Rico is not a State under the National Voter Registration Act

Members of the Executive Branch (e.g., the Department) are prohibited from instructing schools concerning the implementation of these provisions.

The above list is not exhaustive; schools must carefully review all of the requirements listed on their PPA and those specified in 34 CFR 668.14. In addition, a school must meet any requirements for participation specific to an individual SFA Program.

GED Preparatory Program Required

Another participation requirement found in the PPA requires a school that admits students without a high school diploma or its recognized equivalent (based on their ability to benefit) to make a GED preparatory program available to its students. The course does not have to be provided by the school itself, and the school is not required to pay the costs of the program. The GED program must be offered at a place that is convenient for the students and the school must take reasonable steps to ensure that its students have access to the program, such as coordinating the timing of its program offerings with that of the GED program. The school must provide information about the availability of the GED program to affected students. The GED program must be proven successful in preparing its students to obtain a GED—such programs include GED programs that are conducted by state and local secondary school authorities, as well as programs for which the school has documentation that statistically demonstrates the success.

The law does not require a school to verify that a student is enrolled in a GED program or to monitor the student's progress in the program. A student admitted based on his or her ability to benefit who does not have a high school diploma or its recognized equivalent is not required by law to enroll in a GED program, but the school may choose to make this an admissions requirement. A student may not receive SFA Program funds for the GED program although he or she may be paid for postsecondary courses taken at the same time as the GED coursework, including remedial coursework[1] at the secondary level or higher.

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[1] It is the school's responsibility to determine whether a remedial program is at the secondary level. However, if the state, the school's accrediting agency, or the state agency recognized for the approval of public postsecondary vocational education determines that a remedial program is at the elementary level, the school must abide by that determination. For more on remedial coursework, including the admission of ability-to-benefit students, see the *Volume 1 — Student Eligibility*.

Civil Rights and Privacy Requirements

When a school signs the PPA, it also agrees to comply with the civil rights and privacy requirements contained in the Code of Federal Regulations (CFR), that apply to all students in the educational program, not just to SFA recipients (see Chapter 8).

DEFINITION OF A PAYMENT PERIOD

There is one definition of a payment period that is applicable to all SFA Programs, except FWS. The common definition is integral to requirements for the administration of SFA Program funds. For example, all SFA Program disbursements must be made on a payment period basis (for more information, see Chapter 5). Note that FFEL and Direct Loan disbursements must still be made in accordance with the specific disbursement rules for those programs (see *Volume 8 — FFEL/DL* for specific information on FFEL and Direct Loan disbursements).

Payment Period Cite
34 CFR 668.4

Under the payment period definition, there are two sets of requirements: one for term-based credit hour programs, and one for nonterm credit hour programs and all clock hour programs. There is no separate definition for clock hour programs that are offered in terms.

Payment Period for Term-based Credit Hour Programs

For a program offered in semester, trimester, quarter, or other non-standard academic terms and measured in credit hours, the payment period is the term. For example, if a loan period includes all three quarters of an academic year, the loan must be disbursed in three substantially equal payments.

Programs that are offered in modules are not counted as programs measured in terms. The phrase "other academic terms" (also known as nonstandard terms) refers to those structured educational intervals at a school that do not fit into a normally defined semester, trimester, or quarter term. For example, other academic terms could include six five-week terms. A school may choose to group modules together and treat the entire period as a standard term. (For example, grouping three five-week modules together to create a 15-week

Term-Based Credit Hour Programs

Program offered in...	*Payment Period is...*
● semester	● semester
● trimester	● trimester
● quarter	● quarter
● other academic term	● other academic term

"semester"; or grouping four one-month modules into a 13-week "term" would be acceptable).

Payment Period for Nonterm Credit Hour Programs and Clock Hour Programs

Payment periods for programs measured in credit hours without terms and all clock hour programs vary depending on whether the length of the program is

- one academic year or less,
- a multiple of a full academic year,
- longer than an academic year with a remainder shorter than or equal to one half of an academic year, or
- longer than an academic year with a remainder shorter than an academic year, but longer than one half of an academic year.

Payment Period for Programs of an Academic Year or Less

If the program is an academic year or less in length, the first payment period is the period of time in which the student completes the first half of the program, as measured in credit or clock hours. The second payment period is the period of time in which the student completes the second half of the program as measured in credit or clock hours.

Payment Period for Nonterm Credit Hour Programs and All Clock Hour Programs of One Academic Year or Less

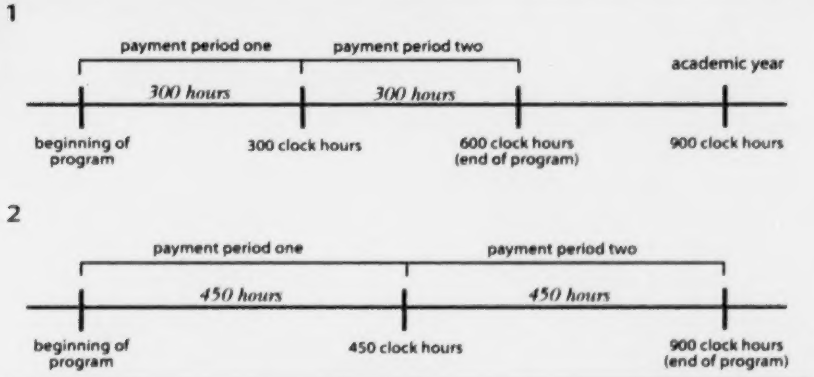
First payment period	*Second payment period*
● period of time in which student completes first half of the program	● period of time in which student completes remainder of the program

For example, if a program is 600 clock hours and the academic year is defined as 900 clock hours, the first payment period is the period of time needed for the student to complete the first 300 clock hours. The second payment period would be the period of time needed for the student to complete the last 300 clock hours (see example one below). If the program was equal to the academic year (900 clock hours), the first payment period would be the period of time needed for the student to complete the first 450 clock hours. The second payment period would be the period of time needed for the student to complete the second 450 clock hours (see example two below).

Payment Period for Programs of Multiples of an Academic Year

If the program is equal to two or more complete academic years, for the first academic year and any subsequent academic year, the first payment period is the period of time in which the student completes the first half of the academic year, as measured in credit or clock

One Academic Year or Less Example


1
payment period one
payment period two
academic year
300 hours
300 hours
beginning of program
300 clock hours
600 clock hours (end of program)
900 clock hours
2
payment period one
payment period two
450 hours
450 hours
beginning of program
450 clock hours
900 clock hours (end of program)

hours. The second payment period is the period of time in which the student completes the second half of the academic year as measured in credit or clock hours.

For example, if a program is 1800 clock hours and the academic year is defined as 900 clock hours, the first payment period for both the first and subsequent academic year is the period of time needed for the student to complete the first 450 clock hours. The second payment period would be the period of time needed for the student to complete the next 450 clock hours (see example below).

Payment Periods for Nonterm Credit Hour Programs and All Clock Hour Programs Longer Than One Academic Year

Program length	***First and subsequent full academic years***		***Remainder of program***	
	First payment period	***Second payment period***	***First payment period***	***Second payment period***
multiples of a full academic year	period of time in which student completes first half of academic year	period of time in which student completes second half of academic year	N/A	N/A
longer than academic year, remainder shorter than or equal to one half an academic year	period of time in which student completes first half of academic year	period of time in which student completes second half of academic year	period of time in which student completes remainder of program	N/A
longer than academic year, remainder shorter than academic year, but longer than half an academic year	period of time in which student completes first half of academic year	period of time in which student completes second half of academic year	period of time in which student completes first half of remainder of the program	period of time in which student completes second half of remainder of the program

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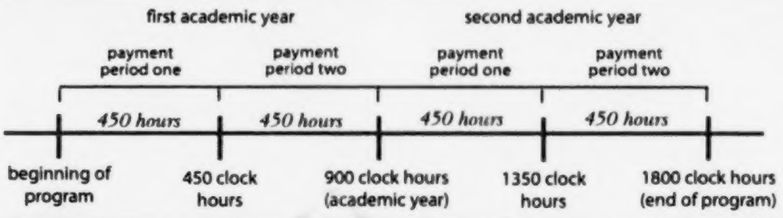
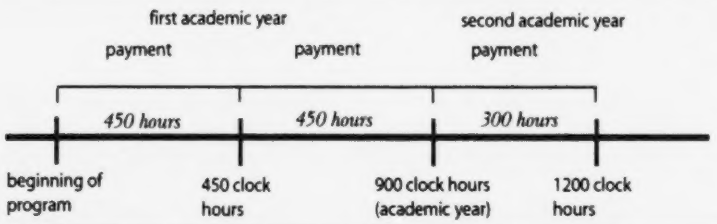
Multiples of an Academic Year Example


first academic year
second academic year
payment period one
payment period two
payment period one
payment period two
450 hours
450 hours
450 hours
450 hours
beginning of program
450 clock hours
900 clock hours (academic year)
1350 clock hours
1800 clock hours (end of program)

Programs Longer than an Academic Year with a Remainder

If the program is longer than an academic year, but has a remaining portion of the program that is not equal to an academic year, for the first academic year and any subsequent full academic year, the first payment period is the period of time in which the student completes the first half of the academic year, as measured in credit or clock hours. The second payment period is the period of time in which the student completes the second half of the academic year as measured in credit or clock hours. For the remaining portion of the program, if the remainder is equal to or shorter than one half of an academic year, the payment period is the remaining portion of the program.

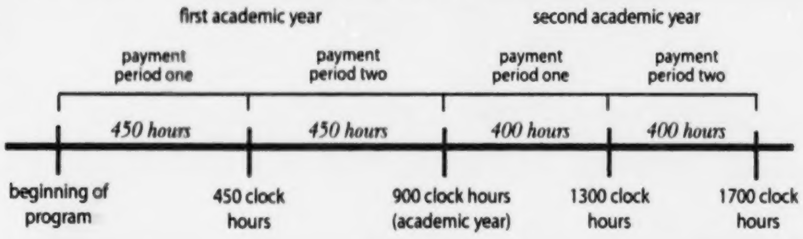
Remainder Equal To or Shorter Than Half an Academic Year Example


first academic year
second academic year
payment
payment
payment
450 hours
450 hours
300 hours
beginning of program
450 clock hours
900 clock hours (academic year)
1200 clock hours

For example, if a program is 1200 clock hours and the academic year is defined as 900 clock hours, the first payment period for the first academic year is the period of time needed for the student to complete the first 450 clock hours. The second payment period would be the period of time needed for the student to complete the next 450 clock hours. The first, and only, payment period for the second academic year is equal to the remaining portion of the program.

If the remaining portion of the program is more than one half of an academic year, but less than a full academic year, for the remaining portion of the program the first payment period is the period of time in which the student completes the first half of the remaining portion of the program, as measured in credit or clock hours. The second payment period is the period of time in which the student completes the second half of the remaining portion of the program as measured in credit or clock hours.

Remainder Greater Than Half an Academic Year Example


first academic year
second academic year
payment period one
payment period two
payment period one
payment period two
450 hours
450 hours
400 hours
400 hours
beginning of program
450 clock hours
900 clock hours (academic year)
1300 clock hours
1700 clock hours

For example, if a program is 1700 clock hours and the academic year is defined as 900 clock hours, the first payment period for the first academic year is the period of time needed for the student to complete the first 450 clock hours. The second payment period would be the period of time needed for the student to complete the next 450 clock hours. The first payment period for the second academic year would be the period of time needed for the student to complete the next 400 clock hours. The second payment period for the second academic year would be the period of time needed for the student to complete the final 400 clock hours.

If a student is enrolled in a program measured in credit hours without terms and the school does not award credits until the entire program is complete, the second payment period begins on the later of

- the calendar midpoint between the first and last scheduled days of class of the program or academic year, or
- the date, as determined by the school, that the student has completed half of the academic coursework.

Definition of Coursework

The term academic coursework does not necessarily refer to credits. It may refer to the lessons or other measures of learning within a course. For instance, for a course made up of 40 equal lessons, the student reaches the halfway point in the coursework after completing 20 lessons.

- If the student completes the first 20 lessons before the calendar midpoint of the academic year, the second payment period does not begin until the calendar midpoint.
- If the student completes the first 20 lessons after the calendar midpoint of the academic year, the second payment period does not begin until the student completes the first 20 lessons.

More than Two Payment Periods Per Academic Year

For a program measured in credit hours without terms and any clock hour program, a school may choose to have more than two payment periods per academic year. If so, the length of the payment periods must be substantially equal throughout the academic year. For example, if a school chooses to have three payment periods in an academic year, each payment period must correspond to one-third of the academic year. Each subsequent payment period cannot begin until the student completes the clock or credit hours in the previous payment period. If a school chooses to have more than two payment periods per academic year, the school must have a written policy and apply the policy to all students who are enrolled in the programs effected.

Definition of Academic Year Cite
34 CFR 668.2

ACADEMIC YEAR REQUIREMENTS

Thirty-week Minimum of Instructional Time

Every eligible program, including graduate programs, must have a defined academic year that contains a minimum of 30 weeks of instructional time. In addition, for undergraduate programs, over the minimum of 30 weeks of instructional time, a full-time student must be expected to complete at least 24 semester or trimester hours, 36 quarter hours, or 900 clock hours as appropriate. A school may determine the amount of work a full-time graduate or professional student is expected to complete over an academic year.

Determining Academic Year Length

A school may have different academic years for different programs or cohorts of students in programs, but must use the same academic year definition for

- calculating all SFA awards for students enrolled in a particular program, and

- all other SFA Program purposes, such as the certification of loan deferments.

To determine the number of weeks of instructional time, a school must count the period that begins on the first day of classes and ends on the last day of classes or examinations.

Definition of a Week of Instructional Time

For all programs except those measured in credit hours without standard terms, a "week of instructional time" is any seven consecutive day period in which at least one day of regularly scheduled instruction, examination, or preparation for examinations occurs. (Instructional time does not include periods of orientation, counseling, vacation, or other activity not related to class preparation or examination.) The requirements for a "week of instructional time" are similar to those for a "week of instruction" for the eligible program definitions (see the discussion of "Weeks of Instruction and the 12-Hour Rule" in Chapter 1).

The 12-hour Rule

For educational programs measured in credit hours without standard terms (semesters, trimesters, or quarters), a week of instruction must include at least 12 hours of instruction, examinations, or preparation for examinations within a consecutive seven-day period.

A school wishing to set its academic year to be only 30 calendar weeks long (a calendar week being seven consecutive days) would have to meet an average of 12 hours per week for the 30 calendar-week period. A school with a program that meets less frequently than 12 hours a week would have to meet enough calendar weeks to provide 360 hours of instruction, examinations, or preparation for examinations (30 calendar weeks x 12 hours per week) in order to have a program offered over a full academic year (equivalent to 30 weeks of instructional time).

For example, if a school wants to establish an academic year of 30 weeks of instructional time for a credit-hour, nonterm program that meets 10 hours a week, the school would need to have approximately 36 calendar weeks (36 calendar weeks x 10 hours per week = 360 hours of instruction, examinations, or preparation for examinations) in order to have the equivalent of 30 weeks of instructional time for a full academic year. Therefore, in this example, a student enrolled in this program would not be eligible to take out another Stafford Loan until he or she had completed the required amount of work and 36 calendar weeks had elapsed. A school must also use this calculation to determine when one-third and two-thirds of an academic year have occurred.

When calculating awards under the Pell Grant Program, a school must always use weeks of instructional time. However, the length of the academic year in calendar weeks will probably exceed the number of weeks of instructional time.

Because the 12-hour rule does not require a school to offer instruction, examinations, or preparation for examinations on specific days, a school may not include a holiday as a day of instruction unless regularly scheduled instruction, examinations, or preparation for examinations occurs on that day.

Reductions in Academic Year Length

The law permits schools that provide two-year or four-year associate or baccalaureate degree programs to apply to the Department if they want to establish a full academic year of less than 30 weeks of instructional time. The Department is permitted to grant a reduction in the length of an academic year to no less than 26 weeks of instructional time. If a reduction is approved, a school is permitted to have an academic year of less than 30 weeks of instructional time (but no less than 26 weeks of instructional time) without any reduction in the amount of SFA funds that a student enrolled in an eligible program is eligible to receive for an entire academic year.

A reduction is available to schools that want to begin or continue to operate with a reduced academic year on a long-term basis. This reduction must be renewed each time a school is required to apply for recertification.

When evaluating a school's application for a reduction, the Department will consider factors such as

- the school's compliance with awarding and disbursement procedures based on the academic year requirements of the Higher Education Amendments of 1992,
- the approval of the academic year by the school's accrediting agency or state agency,
- the hours of attendance and other coursework that a full-time student is required to complete in the academic year, and
- any unique circumstances that justify granting the request.

For further details on the information required for submission of a request for a reduction, see 34 CFR 668.3.

If a school is ineligible for a reduction in the length of an academic year because of noncompliance with awarding and disbursement procedures, that school may be eligible if the school makes arrangements with the Department to recalculate awards as necessary and repay any resulting liabilities.

CONTRACTS WITH THIRD-PARTY SERVICERS

Third Party Servicer Cite
34 CFR 668.25

Schools are permitted to contract with consultants for assistance in administering the SFA Programs. However, the school ultimately is responsible for the use of SFA funds and will be held accountable if the consultant mismanages the programs.

Section 668.25 of the General Provisions regulations contains requirements for all participating institutions that contract with third-party servicers. As defined by regulation, a third-party servicer is an individual or organization that enters into a contract (written or otherwise) with a school to administer any aspect of the institution's SFA participation.

Examples of functions that are covered by this definition include

- processing student financial aid applications, performing need analysis, and determining student eligibility or related activities;
- certifying loan applications, servicing loans, or collecting loans;
- processing output documents for payment to students, and receiving, disbursing, or delivering SFA funds;

- conducting required student consumer information services;
- preparing and certifying requests for advance or reimbursement funding, preparing and submitting notices and applications required of eligible and participating schools, or preparing the Fiscal Operations Report and Application to Participate (FISAP); and
- processing enrollment verification for deferment forms or Student Status Confirmation Reports.

Excluded Activities

Examples of functions that are not covered by this definition include

- performing lock-box processing of loan payments,
- performing normal electronic fund transfers (EFTs),
- publishing ability-to-benefit tests,
- performing functions as a Multiple Data Entry Processor (MDE),
- financial and compliance auditing,
- mailing documents prepared by the institution, or warehousing institutional records, and
- providing computer services or software.

Employees of a School

An employee of a school is not a third-party servicer. For this purpose, an employee is one who

- works on a full-time, part-time, or temporary basis,
- performs all duties on site at the school under the supervision of the school,
- is paid directly by the school,
- is not employed by or associated with a third-party servicer, and
- is not a third-party servicer for any other school.

Requirements for Contracting with a Third-party Servicer

A school may only contract with an eligible third-party servicer, as defined by specific regulatory criteria. Under such a contract, the servicer agrees to comply with all applicable requirements, to refer any suspicion of fraudulent or criminal conduct in relation to SFA Program administration to the Department's Inspector General, and, if the servicer disburses funds, to confirm student eligibility and make the required returns to Title IV funds when a student withdraws.

If the contract is terminated, or the servicer ceases to perform any functions prescribed under the contract, the servicer must return all applicable SFA funds and related records to the school.

Institutional Liability

Although an eligible servicer must meet all these and other requirements, the school remains liable for any and all SFA-related actions taken by the servicer on its behalf, under the terms of the contract.

Notification of Contracts to the Department

Schools should already have notified the Department of all existing third-party servicer contracts. If a school has not notified the Department, the school must do so by providing the Department with the following information for each third-party servicer with which the school contracts: name, address, employer identification number, telephone number, fax number, and Internet address.

If a school has submitted information regarding its third-party servicers as part of an application for certification or recertification, no additional submission is required. A school is not required to notify the Department if it does not contract with any third-party servicers.

Schools are also required to notify the Department if the school enters into a new contract with a third-party servicer; the school significantly modifies a contract with an existing third-party servicer; the school or one of its third-party servicers terminates a contract, or a third-party servicer ceases to provide contracted services, goes out of business, or files for bankruptcy. Notification to the Department (which must include the name and address of the servicer and the nature of the change or action) must be made within ten days of the date of the change or action.

The Amendments of 1998 make it clear that a school must provide a copy of its contract with a third-party servicer only upon request. A school is not required to submit the contract as part of the recertification process.

Additions or changes to a school's third-party servicers must be reported to the Department on Section J of the Application for Approval to Participate in Federal Student Financial Aid Programs (see Chapter 10).

ANTI-DRUG ABUSE REQUIREMENTS

The HEA requires a school to certify to the Department that it operates a drug abuse prevention program that is accessible to its students, employees, and officers. Two other laws added related requirements for postsecondary schools that receive SFA funds.

The Drug-Free Workplace Act of 1988 (Public Law 101-690) requires a federal grant recipient to certify that it provides a drug-free workplace. Because a school applies for and receives its campus-based allocation directly from the Department, the school is considered to be a grantee for purposes of the Act. Therefore, to receive campus-based funds, a school must complete the certification on ED Form 80-0013, which is part of the FISAP package (the application for campus-based funds). This certification must be signed by the school's CEO or other official with authority to sign the certification on behalf of the entire institution.

Requirements for a Drug-free Workplace

The certification lists a number of steps that the school must take to provide a drug-free workplace, including

- establishing a drug-free awareness program to provide information to employees,
- distributing a notice to its employees of prohibited unlawful activities and the school's planned actions against an employee who violates these prohibitions, and
- notifying the Department and taking appropriate action when it learns of an employee's conviction under any criminal drug statute.

A school's Administrative Cost Allowance (ACA) may be used to help defray related expenses, such as the cost of printing informational materials given to employees. For more information on ACAs, see Chapter 5.

Scope of the Act

The drug-free workplace requirements apply to all offices and departments of a school that receives campus-based funds. Organizations that contract with the school are considered subgrantees; however, only grantees are subject to the requirements of the Drug-Free Workplace Act.

Submission of Certification to the Department

The Drug-Free Schools and Communities Act (P.L. 101-226) requires a school to certify that it has adopted and implemented a program to prevent drug and alcohol abuse by its students. Unlike the annual drug-free workplace certification, a school usually will only submit this new certification to the Department once. (An exception would be a school that changes ownership.)

Distribution to Students and Staff

The drug prevention program adopted by the school must include annual distribution to all students and employees of information concerning drug and alcohol abuse as described above, except that these steps must be taken by schools that receive any federal funding and must include the school's students as well as its employees.

Development and Review of a Drug Prevention Program

A school must review its drug prevention program once every two years to determine its effectiveness and to ensure that its sanctions are being enforced. The development of a drug prevention program, although it is a condition for SFA funds, is usually an enterprise that is undertaken by the school administration at large, not by the financial aid office. The regulations originally published on this topic (August 16, 1990) were mailed to participating schools at the time; they offer a number of suggestions for developing a drug prevention program. Also, several organizations that can serve as resources are listed below.

The effectiveness of a school's drug prevention program may be measured by tracking

- The number of drug- and alcohol-related disciplinary actions,
- The number of drug- and alcohol-related treatment referrals,
- The number of drug- and alcohol-related incidents recorded by campus police or other law enforcement officials,
- The number of drug- and alcohol-related incidents of vandalism,
- The number of students or employees attending self-help or other counseling groups related to alcohol or drug abuse, and
- Student, faculty, and employee attitudes and perceptions about the drug and alcohol problem on campus.

Additional Sources of Information

The following resources are available for schools that are developing drug prevention programs.

- ***The Center for Substance Abuse Treatment and Referral Hotline.***

  Information and referral line that directs callers to treatment centers in the local community. (1-800-662-HELP)

- ***The Center for Substance Abuse Prevention Helpline.***

  A line that provides information only to private entities about workplace programs and drug testing. Proprietary and private nonprofit but not public postsecondary schools may use this line. (1-800-967-5752)

- ***The National Clearinghouse for Alcohol and Drug Information.***

  Information and referral line that distributes U.S. Department of Education publications about drug and alcohol prevention programs as well as material from other federal agencies. (1-301-468-2600)

Consequences of Noncompliance

A school that does not certify that it has a drug prevention program, or that fails to carry out a drug prevention program, may lose its approval to participate in the SFA Programs. (See the regulations for details on Department sanctions and appeals procedures available to the school.)

ANTI-LOBBYING CERTIFICATION AND DISCLOSURE

In accordance with P.L. 101-121 (and regulations published December 20, 1989), any school receiving more than $100,000 for campus-based Programs must provide the following to the Department for each award year:

- Certification Form (Combined with Debarment and Drug-Free Workplace certifications, ED-80-0013). The school will not use federal funds to pay a person for lobbying activities in connection with federal grants or cooperative agreements. This certification must be renewed each year for your school to be able to draw down campus-based funds.

- Disclosure Form (Standard Form LLL). If the school has used nonfederal funds to pay a noninstitutional employee for lobbying activities, the school must disclose these lobbying activities to the Department. The school must update this disclosure at least quarterly, when changes occur.

Both of these forms are sent to schools with the campus-based fiscal report/application (FISAP) each summer. The certification form and the disclosure form must be signed by the CEO or other individual who has the authority to sign on behalf of the entire institution. A school is advised to retain a copy in its files.

This certification primarily covers the use of the campus-based Administrative Cost Allowance (ACA). Schools may not use the ACA to pay for their membership in professional associations (such as NASFAA, NATTS, AICS, or NACUBO), regardless of whether the association engages in lobbying activities. Association membership is not a legitimate administrative cost of the SFA Programs.

The school is also responsible for payments made on its behalf, and must include the certification in award documents for any subgrantees or contractors (such as need analysis servicers, financial aid consultants, or other third parties paid from the ACA). See page 2-85 for more information on the ACA.

C0

Administrative Capability

CHAPTER 3

To be certified to participate in the SFA Programs, a school must demonstrate that it is administratively capable of providing the education it promises and of properly managing the SFA Programs. This chapter discusses the requirements a school must meet to demonstrate its administrative capability.

REQUIRED ELECTRONIC PROCESSES

To be considered administratively capable to participate in an SFA Program, a school must participate in all electronic processes that are required by the Department, if the processes are provided at no substantial charge to the school. To comply with this requirement, a school may use software provided by the Department or software developed by the school, or its vendor, in accordance with specifications provided by the Department. Alternatively, a school may meet this requirement by the use of a third party servicer (for more information on third-party servicers, see Chapter 2).

The table on page 2-44 lists the required electronic processes and the deadline dates for implementation. A school that fails to participate in any of these processes by the required deadline date is considered by the Department to lack the administrative capability to administer the SFA Programs properly.

The Higher Education Amendments of 1998, Public law 105-244 (the Amendments of 1998) require the Department to notify, as practicable, schools, guaranty agencies, lenders, interested software providers, and, upon request, other interested parties, of software and hardware requirements by December 1 prior to the beginning of an award year.

The Technical Specifications table (page 2-45) provides schools with information regarding hardware and software requirements that enables them to participate in these designated electronic processes. The left column of the Technical Specifications Table provides information on the current minimum configuration needed in order for a school to maintain a basic level of electronic efficiency. The right column provides information on the configuration needed to support the electronic requirements that began in January 1999.

Administrative Capability Cites
Sec. 498(d), 34 CFR 668.16

Required Electronic Processes Cite
34 CFR 668.16 (o)

Notification of Hardware and Software Cite
Sec. 483(a)(5)

Required Electronic Processes and Deadline Dates

Deadline Date	*Designated Electronic Processes*
July 1, 1998	● Access to the "Info for Financial Aid Professionals" website or the Student Financial Assistance Bulletin Board System (SFA BBS) ● Submission of the Application for Approval to Participate in Federal Student Aid Programs (recertification, reinstatement, and changes) through the Internet ● Submission of the Fiscal Operations Report and Application to Participate (FISAP) to the Title IV Wide Area Network (TIV WAN). Diskettes will be eliminated.
January 1, 1999	● Windows 95, Windows NT or Higher
July 1, 1999	● For the 1999-2000 Award year and Beyond: ✓ Report Federal Pell Grant Payments Electronically or on Magnetic Tape or Cartridge to the Title IV Wide Area Network (TIV WAN). Diskettes will be eliminated. ● Submit Student Status Confirmation Report (SSCR) data Electronically or on Magnetic Tape or Cartridge to the National Student Loan Data System (NSLDS). Diskettes will be eliminated. ● Submit Federal Perkins Loan Data Electronically or on Magnetic Tape or Cartridge to the National Student Loan Data System (NSLDS). Diskettes will be eliminated.

[1] *The application processing cycle lasts 18 months. For the 1998-99 award year, application processing begins in January 1998 and applications for that year will be accepted until June 30, 1999.*

When reviewing these specifications, schools should be aware that capacity requirements (processor speed, RAM, hard drive storage, etc.) are greatly affected by specific factors at each school, including which EDExpress functions the school uses, number of records processed, and institutional database interfaces.

As electronic processes are announced for implementation, the Department will provide software where needed. A school is not restricted to using software provided by the Department to participate in an electronic process required by the Department. The school may also use software developed by the school or its vendor in accordance with specifications provided by the Department.

Access to the "Information for Financial Aid Professionals" Website

Schools no longer automatically receive Departmental information through the mail, including most "Dear Colleague" letters, announcements, Federal Registers, etc. Instead, schools must have the capability to retrieve such documents from the Department's Information for Financial Aid Professionals website. The specific Internet address to the website is:

http://ifap.ed.gov/

A school that uses a third-party servicer to meet this requirement needs to ensure that it is kept informed by its third-party servicer of all information posted by the Department on the IFAP website.

A school may enroll in the Department's "fax broadcast" service to receive automatically by facsimile high-priority messages from the Department. This service will be used for messages that need immediate attention. These messages will be posted on the IFAP website also. To enroll, a school may call 1-800-4FEDAID.

Technical Specifications

	Current Minumum Configuration (Depending Upon Volume and Usage)	*Minumum Configuration Required by January 1999*
Equipment	IBM or fully IBM-compatible PC	IBM or fully IBM-compatible PC
	66 MHZ Processor 486DX2	200 MHZ Pentium Processor or comparable
	16 MB RAM	64 MB RAM
	300 MB Hard Disk Space	4.0 GB SCSI Hard Drive
	14,400 bps or higher baud Hayes or caparable Modem	56K Analog Modem
	3.5"/1.44 MB Diskette Drive	3.5"/1.44 MB Diskette Drive
	SVGA Monitor	SVGA Monitor
	Standard Keyboard	Windows 95 Keyboard
	Printer capable of printing on standard paper (8 1/2" x 11")	Laser printer capable of printing on standard paper (8 1/2" x 11")
	4x CD-ROM Drive with sound board[1]	12x CD-ROM Drive with sound board[1]
Software	MS-DOS version 6.2 or higher; Windows 3.1, 3.11 or 95	32 bit operating system (Windows 95 or Windows NT 4.x)
	Internet Service Provider (ISP)[2]	Internet Service Provider (ISP)[2]
	Netscape Navigator 3.0 or 3.01 (domestic) or web browser[3]	Netscape Navigator 3.0 or 3.01 (domestic) or web browser[3]
Phone Line	Dedicated phone line	Dedicated phone line
Diskettes	3.5" high density double-sided diskettes	3.5" high density double-sided diskettes

[1] *Required if school wants to use the EDExpress Tutorial and the AWARE software.*

[2] *Will be necessary to access the "Info for Financial Aid Professionals" website or the Student Financial Assistance Bulletin Board System and for submission of the Application for Approval to Participate in Federal Student Aid Programs (recertification, reinstatement and changes).*

[3] *Currently, must use Netcape Navigator 3.0 or 3.01 (domestic) in order to utilize FAFSA on the Web. The Department is currently testing other web browsers that will be made available to the public in the near future.*

In order for a school to meet this requirement, as well as have the capability to submit recertification documents over the Internet, as discussed below, it must have Internet access through an Internet Service Provider, and have a World Wide Web browser, i.e., Netscape Navigator or Microsoft Internet Explorer. To download a copy of the Netscape Navigator software, the web address is http://home.netscape.com. The web address to download the Microsoft Internet Explorer software is

http://www.microsoft.com/windows/ie/download/

Schools must have the capability to print Federal Registers or other complex documents provided in Portable Document Format (PDF). The software for viewing and printing PDF files can be downloaded onto a school's PC hard drive for free from the Adobe Systems website at http://www.adobe.com/prodindex/acrobat/readstep.html.

Of course, a school may use other software to print these documents.

Submission of the Application to Participate (Recertification) through the Internet:

As of July 1, 1998, applications for recertification, reinstatement, or changes in school ownership or structure must be submitted to the Department electronically through the Internet. The Department no longer provides diskettes to schools for submission of the "Application for Approval to Participate in Federal Student Financial Aid Programs." A signature page is required and must be mailed separately along with all required supporting documentation. Schools need to have access to the World Wide Web using a forms capable web browser such as Netscape Navigator or Microsoft Internet Explorer. The web address to access the electronic application form is:

http://www.eligcert.ed.gov/

Schools must send electronic updates to their application data through the Internet. When a school accesses its application, it will be populated with data from the last recertification. The school changes the necessary data items, and transmits it for Departmental review and acceptance. The Application allows for changes in telephone numbers, fax numbers, names on the application, locations, vocational programs, etc.

For more information on applying for participation in the SFA Programs or providing updated information to application data, see Chapter 10.

Submission of the FISAP through the TIV WAN:

Beginning with the Fiscal Operations Report for 1997-98 and Application to Participate for 1999-2000 (FISAP) due October 1, 1998, schools are required to submit FISAP data through the TIV WAN. In the past, a FISAP could be submitted to the Department either through an electronic submission or by sending computer diskettes or magnetic tapes. The TIV WAN requirement eliminated the diskette and magnetic tape options and required electronic submission via the TIV WAN.

January 1, 1999 Requirements

Windows 95, Windows NT or Higher:

As a technical requirement, schools must be prepared to process Department data, starting with the 1999-2000 award year, using either Windows 95, Windows NT, or a newer version of the Windows operating system. The Disk Operating System (DOS) and earlier versions of Windows are no longer supported.

July 1, 1999 Requirements

Submission of Federal Pell Grant Payment Data:

As of July 1, 1999, schools will use a new Recipient Financial Management System (RFMS) that replaces the existing Pell Grant Recipient Financial Management System (PGRFMS) to report and request Federal Pell Grant student payment information.

For more information, see the Announcement Letter published July 1998 (ANN-98-8) and Action Letter #2, published in September 1998 (P-98-4).

Submission of SSCR Data and Federal Perkins Loan Data to the NSLDS:

Schools are required to report Student Status Confirmation Report (SSCR) data electronically or by magnetic tape. As of July 1, 1999 the Department no longer accepts diskette submissions.

Submission of Federal Perkins Loan Data to the NSLDS:

Beginning July 1, 1999, schools will be required to report Federal Perkins Loan Data electronically or by magnetic tape. The Department will no longer accept diskette submissions of Federal Perkins Loan data.

COORDINATION OF AID

Another standard of administrative capability requires that an eligible school designate a capable individual to administer the SFA Programs and to coordinate aid from these programs with the school's other federal and nonfederal student aid programs. The school's administration must be coordinated in such a way that all the information it receives concerning a student's SFA eligibility—from any school office— is communicated to the financial aid administrator. To properly package and most effectively use the various types of student assistance (federal, school, state, private, etc.), a financial aid

Capable individual

An individual is "capable" if he or she is certified by the state (in which the school is located), if state certification is required. Other factors include the individual's successful completion of SFA Program training provided or approved by the Department, and previous experience and documented success in SFA Program administration.

administrator must be aware of all sources of aid at the school and must be able to coordinate with all financial aid programs a school offers to ensure that a student's aid does not exceed his or her need.

CONSISTENCY OF STUDENT INFORMATION

The school must have a system of identifying and resolving discrepancies in the SFA-related information received by various school offices. Such a system would include a review of all financial aid and need analysis documents, federal and state income tax forms, and documents relating to admissions, citizenship, and previous educational experience. For instance, if a student receives veterans benefits through one school office, that office must notify the aid administrator of these benefits to ensure that the amounts are correctly reported on the student's aid application and are counted as a resource for the campus-based programs and estimated financial assistance for the Direct Loan and FFEL programs. As another example, the school's admissions or registrar's office must provide the financial aid office with any information that it has affecting a student's eligibility—the student's enrollment in an ineligible program, for instance, or past educational experience.

OIG REFERRALS

If the school finds that a student may have engaged in fraud or other criminal misconduct in applying for SFA Program funds, it must refer this information to the Department's Office of Inspector General (OIG), that will in turn notify other officials as appropriate. (Please note that this requirement does not preclude the school from notifying other law enforcement agencies as necessary.) Some examples of fraudulent information include the use of false identities, forgery of signatures or certifications, and false claims of income, citizenship, or independent student status.

COUNSELING

The school must provide adequate financial aid counseling to all enrolled and prospective students and their families. Counseling must include, at a minimum, information about the source and amount of each type of aid offered, the method by which aid is determined and disbursed or applied to a student's account, and the rights and responsibilities of the student associated with the student's enrollment and receipt of financial aid. This information should include a description of the school's refund policy, the requirements for the treatment of SFA Program funds when a student withdraws, satisfactory progress standards, and any other conditions or factors that may affect the student's aid package. The school must also provide entrance and exit counseling for student borrowers in the Perkins, FFEL, and Direct Loan programs. For a complete discussion of loan counseling requirements, see the *SFA Handbook: Campus-Based Program Reference*, the *SFA Handbook: Direct Loan and FFEL Programs Reference*, and Direct Loan entrance and exit counseling guides.

ADEQUATE STAFFING

To manage a school's aid programs effectively, the aid administrator must be supported by an adequate number of professional, paraprofessional, and clerical personnel. An "adequate" staff depends on the number of students aided, the number and types of programs in which the school participates, the number of applicants evaluated and processed, the amount of funds administered, and the type of financial aid delivery system the school uses. What may be adequate at one school may be completely insufficient at another. The Department will determine, on a case-by-case basis, whether a school has an adequate number of qualified persons, based on program reviews, audits, and information provided on the school's application for approval to participate in the SFA Programs.

In addition to having a well-organized financial aid office staffed by qualified personnel, a school must ensure that its administrative procedures for the SFA Programs include an adequate system of internal checks and balances. This system, at a minimum, must separate the functions of authorizing payment and disbursing or delivering funds so that no one person or office exercises both functions for any student receiving SFA funds. Small schools are not exempt from this requirement even though they may have limited staff. Individuals working in either authorization or disbursement may perform other functions as well, but not both authorization and disbursement. These two functions must be performed by individuals who are not members of the same family and who do not together exercise substantial control over the school. If a school performs any aspect of these functions via computer, no one person may have the ability to change data that affect both authorization and disbursement.

Family

A member of an individual's family is a parent, sibling, spouse, child, spouse's parent or sibling, or sibling's or child's spouse.

Substantial Control

Substantial control is direct or indirect control over at least 25% ownership interest (either alone or with family members); representation (under voting trust, power of attorney, or proxy) of a person who individually or with a group has at least 25% ownership interest; status as CEO or other executive officer or member of a board of directors of an entity holding at least 25% ownership interest.

SATISFACTORY PROGRESS AND FINANCIAL AID HISTORY

Two institutional requirements are directly related to student eligibility: satisfactory academic progress and financial aid history. An eligible school must have a policy to measure the academic progress of its students, according to the elements of a reasonable standard of satisfactory progress as provided in the regulations. Beginning July 1, 2000, schools may obtain student eligibility information for a mid-year transfer student directly from NSLDS instead of obtaining a paper FAT from the prior school. However, until additional regulatory and operational changes are made, the school must access the NSLDS **no earlier than 30 days prior** to the beginning of the first payment period for which the school expects to pay the student Title IV aid. (See Dear Colleague Letter GEN 00-12 for additional information.)

DEFAULT RATES

A school is not administratively capable when

- the cohort default rate for Perkins Loans made to students for attendance at the school exceeds 15% (see *Volume 5 — Perkins* for details), or

- the cohort default rate for Stafford/SLS loans or for Direct Loans made to students for attendance at the school equals or exceeds 25% for one or more of the three most recent fiscal years (see *Volume 8 — FFEL/DL* for details).

If a school is not administratively capable solely because of a high default rate, the Department will provisionally certify the school.

In addition to affecting a school's administrative capability and limiting the school's participation in the SFA Programs, a high default rate may make a school ineligible to participate in the FFEL, Direct Loan, Federal Pell Grant or Perkins program or cause the Department to limit, suspend, or terminate a school's participation in the SFA Programs. For detailed information on default requirements refer to the Cohort Default Rate Guide that the Department provides to schools.

Exemption from Default Management Plan Cite
Sec. 487(a)(14)(C)

Default Rates and Pell Participation Cite
Sec. 401(j)

Default Management Plan

In the past, a school with a Stafford/SLS default rate of specified percentages was required to implement some or all of the default reduction measures listed in 34 CFR Part 668, Appendix D of the General Provision regulations. Final regulations published December 1, 1995 that revised several aspects of the Department's default prevention and reduction measures removed these requirements beginning with the 1996-97 award year. However, new schools are still required to develop a default management plan prior to certification. Also, a school that undergoes a change in ownership that results in a change in control, or a school that changes its status as a main campus, branch campus, or additional location must also develop a default management plan.

The Higher Education Amendments of 1998, Public Law 105-244 (the Amendments of 1998) provide that a school is exempt from submitting a default management plan if (a) the parent institution and the subordinate institution both have a cohort default rate of 10 percent or less and (b) the new owner of the parent or subordinate institution does not own, and has not owned, any other school with a cohort default rate over 10 percent.

The Amendments of 1998 also added a provision that makes a school ineligible to participate in the Federal Pell Grant Program if it loses eligibility to participate in the FFEL or the Direct Loan programs due to high default rates after the publication of final default rates for fiscal year 1996, or a subsequent fiscal year. A school may appeal its default rate before its participation in Pell is eliminated.

This provision applies to schools participating in the FFEL or Direct Loan programs on or after October 7, 1998.

The Amendments also make several changes to default rate requirements for the Perkins Loan Program. See *Volume 5 — Perkins* for more information.

WITHDRAWAL RATES

New schools (schools that seek to participate in an SFA Program for the first time) must have an undergraduate withdrawal rate for regular students of no more than 33% for an award year in order to be considered administratively capable.

When calculating the withdrawal rate, all regular, enrolled students must be included. The definition of "enrolled" does not require either payment of tuition or class attendance; therefore, the withdrawal rate calculation must include enrolled students who have not yet paid tuition or who did not actually begin attending classes. A student is considered to have withdrawn if he or she officially withdraws, unofficially drops out, or is expelled from the school or receives a refund of 100% of his or her tuition and fees (less any permitted administrative fee). A student who withdraws from one or more courses or programs, but does not withdraw entirely from the school, does not meet the definition of "withdrawn." Instead, this action is considered a change in enrollment status, (i.e., student reduced his number of credit hours from 12 to 6 credits. Note that the 33% withdrawal rate applies to all enrolled, regular students—not just to SFA recipients.

Enrolled

A student enrolls when he or she completes the registration requirements (except payment of tuition and fees) at the school. Correspondence students are enrolled if they have been admitted to the program and have submitted one lesson (that was completed without the assistance of a school representative).

DEBARMENT AND SUSPENSION CERTIFICATION

Debarment of School or its Principals

Debarment and suspension requirements are also a part of the administrative capability standards. Debarment and suspension actions are imposed against individuals who the government determines constitute a current risk to federal agencies based on the individual's actions. The Department gives effect to debarment and suspension actions by other agencies that have been imposed under procedures that provide due process protections equivalent to those afforded by the Department.

Before a school may receive Pell Grant or campus-based funding, a school must certify that neither the school nor its employees have been debarred or suspended by a federal agency. This certification is on the PPA and, for schools participating in the campus-based programs, is included on ED Form 80-0013 that is a part of the FISAP package mailed to schools each summer.

If the school or its principals have been suspended, debarred, or proposed for debarment by one federal agency, the school is no longer eligible to participate in any SFA Program. The principals of the school include the owners, the directors, officers, partners, employees, or any other person with primary management or supervisory responsibilities. A principal may also be someone who is not employed by the school, but who has critical influence on or substantive influence over a covered transaction (such as the receipt of Pell Grant or campus-based funds).

If a school discovers that a person employed in a primary management or supervisory capacity has been suspended or debarred by a federal agency, the school must remove that person from such a position or risk losing its SFA eligibility.

Similar debarment and suspension procedures apply to debarments and suspensions of lenders, third party servicers or loan servicers under the FFEL Programs.

Checking Prospective Employees or Contractors

To protect itself, a school might ask prospective employees and contractors about previous debarment or suspension, either in person or on a written application. A school may also call the Department to find out if an individual or organization is on the Nonprocurement List. The debarment or suspension of a person who is not a principal of the school and who does not work in the financial aid office will not affect the school's SFA eligibility, so long as that person is not involved in any covered transactions. The regulations list the particular transactions from which a debarred or suspended entity is excluded under the SFA Programs.

Lower-tier Covered Transactions

A school must not enter into lower-tier covered transactions with a debarred or suspended individual or organization. A lower-tier covered transaction is any transaction between a participant in a covered transaction (such as the school) and another individual or organization, if that transaction stems from a covered transaction. Examples of common lower-tier covered transactions are a school's contracts with a financial aid consultant service or with a loan collection or billing agency. A school must obtain a certification from any lower-tier organization if the amount of the lower-tier transaction is $25,000 or more. (The required certification clause is given on page 25 of "Dear Colleague" letter GEN-89-21.) The lower-tier organization must inform the school in writing if the organization or its principals are debarred or suspended. Therefore, the certification does not need to be renewed from year to year.

CHAPTER 4

Financial Responsibility

In this chapter, we discuss the financial responsibility requirements for all schools participating in the SFA Programs.

In order to participate in the SFA Programs, a school must demonstrate that it is financially responsible. To provide the Department with the information necessary to evaluate a school's financial responsibility, schools are required to submit financial information to the Department every year. A school must provide this financial information in the form of an audited financial statement as part of a combined submission that also includes the school's compliance audit. The combined submission must be submitted to the Department within six months of the end of the school's fiscal year. See Chapter 11 for more information on required audit submissions.

Financial Responsibility Cites
Sec. 498(c), 34 CFR 668 Subpart L

What follows is a general overview of the financial responsibility standards. Schools should refer to Subpart L of the Student Assistance General Provisions for complete information. For information regarding accounting and compliance issues, a school should contact its Case Management Team (see page 2-286).

The Department determines whether a school is financially responsible based on its ability to

- provide the services described in its official publications and statements,
- properly administer the SFA program in which the school participates, and
- meet all of its financial obligations.

Under the regulations of November 25, 1997, the financial responsibility standards can be divided into two categories: (1) General standards, which are basic standards used to evaluate a school's financial health, and (2) Performance and affiliation standards, which are standards used to evaluate a school's past performance and to evaluate persons affiliated with the school.

Schools are no longer required to meet standards that apply specifically to each type of school. Instead, differences among sectors of schools (for example, proprietary, private nonprofit, and public) are taken into account by variances within a standard. This change is discussed more fully in the discussion of the new composite score standard.

GENERAL STANDARDS

Proprietary or private nonprofit institution

A proprietary or private nonprofit institution is financially responsible if the Department determines that

- the school has a composite score of at least 1.5,
- the school has sufficient cash reserves to make the required return of Title IV funds (these requirements are known as the "refund reserve standards"),
- the school is current in its debt payments, and
- the school is meeting all of its financial obligations, including making required return of Title IV funds and making repayments to cover SFA Program debts and liabilities.

These requirements are discussed in more detail below.

Audit opinions and past performance

Even if a school meets all of the general requirements, the Department does not consider the school to be financially responsible if

- the school has a statement by the auditor in its audited financial statement expressing doubt about the continued existence of the school as a "going concern," or an adverse, qualified, or disclaimed opinion (unless the Department determines that a qualified or disclaimed opinion does not have a significant bearing on the school's financial condition), or
- the school violated one of the past performance requirements discussed below.

Composite score

The November 25, 1997 final regulations replaced the separate tests for proprietary and private non-profit institutions with a single standard called the composite score standard. But, when a change in ownership has occurred, the standards under the 1994 HEA Amendments become operative. These would include such factors as: the acid test ratio and positive net worth tests are used. The composite score standard combines different measures of fundamental elements of financial health to yield a single measure of a school's overall financial health. This method allows financial strength in one area to make up for financial weakness in another area. In addition, this method provides an equitable measure of the financial health of schools of different sizes.

Some aspects of the composite score methodology (for example, the calculation of ratios) vary depending on whether the school is a proprietary institution or a private non-profit institution. The variance takes into account the accounting differences between these sectors of postsecondary institutions. However, the basic steps used to arrive at the composite score are the same. For complete information on the calculation of the composite score, schools should refer to Appendices F and G of the General Provisions regulations.

The first step in calculation a school's composite score is to determine the school's primary reserve, equity, and net income ratios by using information from the school's audited financial statement in the ratios established by the Department. These ratios are used to take into account the total financial resources of the school. The Primary Reserve ratio represents a measure of a school's viability and liquidity. The Equity ratio represents a measure of a school's ability to borrow and its capital resources. The Net Income ratio represents a measure of a school's profitability. Upon review, some items from a school's audited financial statement may be excluded from the calculation of the ratios. For example, the Department may exclude the effects of questionable accounting treatments, such as excessive capitalization of marketing costs, from the ratio calculations. See 34 CFR 668.172(c) for more information on possible exclusions.

Example of a Calculation of a Composite Score for a Proprietary Institution*

Calculation of Ratios

$$\text{Primary Reserve Ratio} = \frac{\text{Adjusted Equity}}{\text{Total Expenses}} = \frac{\$760{,}000}{\$9{,}500{,}000} = 0.080$$

$$\text{Equity Ratio} = \frac{\text{Modified Equity}}{\text{Modified Assets}} = \frac{\$810{,}000}{\$2{,}440{,}000} = 0.332$$

$$\text{Net Income Ratio} = \frac{\text{Income Before Taxes}}{\text{Total Revenues}} = \frac{\$510{,}000}{\$10{,}010{,}000} = 0.051$$

Calculation of Strength Factor Score

Primary Reserve Strength Factor Score = 20 x Primary Reserve Ratio	20 x 0.080 = 1.600
Equity Strength Factor Score = 6 x Equity Ratio	6 x 0.332 = 1.992
Net Income Strength Factor Score = 1 + (33.3 x Net Income Ratio)	1 + (33.3 x 0.051) = 2.698

Calculation of Weighted Score

Primary Reserve Weighted Score = 30% x Primary Reserve Strength Factor Score	0.30 x 1.600 = 0.480
Equity Weighted Score = 40% x Equity Strength Factor Score	0.40 x 1.992 = 0.797
Net Income Weighted Score = 30% x Net Income Strength Factor Score	0.30 x 2.698 = 0.809

Composite Score

Sum of all weighted scores	0.480 + 0.797 + 0.809 = 2.086	rounded to **2.1**

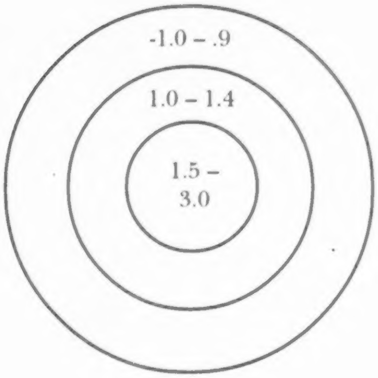
*The defintion of terms used in the ratios and the applicable strength factor algorithms and weighting percentages are found in Appendix F of the General Provisions for proprietary institutions and Appendix G for private nonprofit institutions.

A strength factor score is then calculated for each ratio using equations established by the Department. A strength factor score reflects a school's relative strength or weakness in a fundamental element of financial health, as measured by each of the ratios. Specifically, the strength factor scores reflect the extent to which a school has the financial resources to: 1) replace existing technology with newer technology; 2) replace physical capital that wears out over time; 3) recruit, retain, and re-train faculty and staff (human capital); and 4) develop new programs.

A weighting percentage is applied to each strength factor score to obtain a weighted score for each ratio. The weighting percentages reflect the relative importance that each fundamental element has for a school in a particular sector (proprietary or private non-profit).

The sum of the weighted scores equals the school's composite score. Because the weighted scores reflect the strengths and weaknesses represented by the ratios and take into account the importance of those strengths and weaknesses, a strength in the weighted score of one ratio may compensate for a weakness in the weighted score of another ratio. The example below illustrates the calculation of a composite score for a proprietary institution.

Once the composite score is calculated, it is measured along a common scale from negative 1.0 to positive 3.0 as indicated in the chart below. This scale reflects the degree of certainty that a school will be able to continue operations and meet its obligations to students and the Department.



Financial Responsibility Composite Score Scale

1.5 to 3.0	Financially responsible without further oversight
1.0 to 1.4	Financially responsible if meet the "zone alternative" or 50% or greater letter of credit alternative. May be permitted to participate under provisional certification with smaller letter of credit, but not considered financially responsible.*
-1.0 to .9	Financially responsible if meet the 50% or greater letter of credit alternative. May be permitted to participate under provisional certification with smaller letter of credit, but not considered financially responsible ("zone alternative" not available).*

*Transition year alternative available for one year.

Cite
34 CFR 668.173(a) and (b)

Refund Reserve Standards

A school must have sufficient cash reserves to make any required return of Title IV funds (see Chapter 6 for more information on refunds, including timely payment of refunds). The Department considers a school to have sufficient cash reserves if the school meets one of the following three criteria:

- satisfies the requirements of a public school (see the discussion of public schools under "General Standards"),

- is located in a state that has a tuition recovery fund approved by the Department and the school contributes to that fund, or

- demonstrates that it makes its returns to Title IV funds in a timely manner.

A school has made its returns in a timely manner if it can demonstrate, through audits for the two most recent fiscal years, that for the past two years the school has paid all required refunds/returns on time.

The Department provides for a small margin of error in determining that a school has paid all required returns on time. The Department considers a school to have paid returns in a timely manner if

- there is less than a five percent error rate in the sample of returns examined by a reviewer or auditor (i.e., the school failed to make timely refunds to less than five percent of the students in the sample), or

- there is only one late return in the sample of returns examined by a reviewer or auditor (regardless of the percentage of returns in the sample represented by the one late return), and

- the reviewer or auditor did not note for either fiscal year a material weakness or a reportable condition in the school's report on internal controls that is related to refunds.

If a finding is made that a school no longer meets any of the three criteria for demonstrating that it has sufficient cash reserves to make any required refunds, the school must post a letter of credit equal to 25% of the total SFA Program refunds made or that should have been made by the school during its most recently completed fiscal year. The school must submit the letter of credit to the Department no later than 30 days after the school is notified of the finding, or no later than 30 days after the school's compliance audit is due, if it was the auditor that conducted the school's compliance audit who determines that the school no longer qualifies. A school must send the letter of credit to

U.S. Department of Education
Case Management and Oversight
P.O. Box 44805
L'Enfant Plaza Station
Washington, DC 20026
ATTN: Director, CMO

In addition to posting the letter of credit, if a guaranty agency or state review determines that the school no longer meets the refund reserve standard, the school must notify the Department of the guaranty agency or state that conducted the review.

When a state submits a tuition recovery fund for evaluation by the Department, the Department will consider the extent to which the recovery fund

- provides returns to both in-state and out-of-state students,
- complies with SFA Program requirements for the order of return of funds to sources of assistance, and
- will be replenished if any claims arise that deplete the fund.

Cite
34 CFR668.171(b)(3)

Current in debt payments
A school is not current in its debt payments if

- it is in violation of any existing loan agreement at its fiscal year end, as disclosed in a note to its audited financial statements or audit opinion, or
- fails to make a payment in accordance with existing debt obligations for more than 120 days, and at least one creditor has filed suit to recover funds under those obligations).

Public schools

A public school is financially responsible if its debts and liabilities are backed by the full faith and credit of the state or other government entity. The Department considers a public school to have that backing if the school notifies the Department that it is a designated as a public school by the State, local, or municipal government entity, tribal authority, or other government entity that has the legal authority to make that designation. The school must also provide the Department with a letter from an official of the appropriate government entity confirming the school's status as a public school. A letter from a government entity may include a confirmation of public school status for more than one school under that government's purview.

A public school must also meet the past performance and affiliation standards discussed below. Also, public schools are still subject to the Department's reporting requirements that require the submission of financial statements that are prepared in accordance with generally accepted accounting principles (GAAP) and on the accrual basis.

The letter is a one-time submission and should be submitted as soon as possible separately from the financial statements.

The public institution should submit the letter as follows.

If by U.S. Postal Service:

U.S. Department of Education
Case Management and Oversight
P. O. Box 44805
L'Enfant Plaza Station
Washington, D.C. 20026-4805

If by commercial overnight mail/courier delivery:

U.S. Department of Education
Case Management and Oversight
7th & D Streets, S.W.
GSA Building, Room 5643
Washington, D.C. 20407
Phone (202) 205-1936 (for this purpose)

ALTERNATIVES TO THE GENERAL STANDARDS

If a school does not meet the general standards for financial responsibility, the Department may still consider the school to be financially responsible or may allow the school to participate under provisional certification if the school qualifies for an alternative standard.

Cite
34 CFR 668.175

If the Department determines that a school that does not meet one or more of the general standards also does not qualify for an alternative, the Department may initiate a limitation, suspension, or termination action against the school (see Chapter 11 for more information).

The alternate standards were changed by the November 25, 1997 final regulations to reflect changes made to the general standards. For example, the "precipitous closure alternative" has been replaced by the "zone alternative."

LOC alternative for new school

A new school (a school that seeks to participate in the SFA Programs for the first time) that does not meet the composite score standard (i.e., has a composite score of less than 1.5), but meets all other standards, may demonstrate financial responsibility by submitting an irrevocable letter of credit to the Department. The letter of credit must be acceptable and payable to the Department and equal to at least 50 percent of the SFA Program funds that the Department determines that the school would receive during its initial year of participation.

LOC alternative for participating school

A participating proprietary or private nonprofit institution that fails to meet one or more of the general standards or isn't financially responsible because it has of an unacceptable audit opinion, may demonstrate financial responsibility by submitting an irrevocable letter of credit to the Department. The letter of credit must be acceptable and payable to the Department and equal to at least 50 percent of the SFA Program funds that the school has received during its most recently completed fiscal year.

Zone alternative

A participating school that fails to meet the composite score standard (i.e., has a composite score of less than 1.5), but meets all other standards, may demonstrate financial responsibility for up to three consecutive fiscal years if the Department determines that the school's composite score is equal to 1.0 to 1.4 for each of those years and the school meets specific monitoring requirements.

This alternative gives a school the opportunity to improve its financial condition over time without requiring the school to post a letter of credit or participate under provisional certification. Under the zone alternative, a school's operations, including its administration of the SFA Programs, are monitored more closely. If a school does not score at least 1.0 in one of the three subsequent fiscal years or does not improve its financial condition to attain a composite score of at least 1.5 by the end of the three-year period, the school must satisfy another alternative standard to continue to participate. In addition, if a school fails to comply with the information reporting or payment method requirements, the department may determine that the school no longer qualifies under this alternative.

Under this alternative, the school

- must request and receive funds under the cash monitoring or reimbursement payment methods, as specified by the Department (see Chapter 5 for more information);
- must provide timely information regarding certain oversight and financial events (for example, any adverse action taken by the school's accrediting agency). A school should refer to 34 CFR 668.175(d) for more information;
- may be required to submit its financial statement and compliance audit earlier than normally required (see Chapter 11 for more information on audit submission deadlines); and
- may be required to provide information about its current operations and future plans.

The school must also require its auditor to express an opinion as part of the school's compliance audit, on the school's compliance with the requirements of the zone alternative, including the school's administration of the payment method under which the school received and disbursed SFA Program funds.

Provisional certification for school not meeting standards

If a participating proprietary or private nonprofit institution fails to meet one or more of the general standards or is not financially responsible because it has an unacceptable audit opinion, the Department may permit the school to participate under provisional certification for up to three years. For example, a school with a composite score of less than 1.0 that cannot post the 50 percent letter of credit required for the letter of credit alternative, may be permitted to continue to participate under provisional certification by submitting a smaller letter of credit.

The Department may also permit a school that is not financially responsible because of a condition of past performance of the school to participate under provisional certification for up to three years if the school demonstrates to the Department that it has satisfied or resolved the condition.

A school that participates under provisional certification for a lack of financial responsibility does so under the following conditions

- the school must submit to the Department a letter of credit, payable and acceptable to the Department, for an amount determined by the Department (this amount must be equal to at least 10% of the SFA Program funds received by the school during its most recent fiscal year),
- the school must demonstrate that it has met all of its financial obligations and was current on its debt payments for its two most recent fiscal years, and
- the Department may require the school to comply with the requirement under the zone alternative that the school provide timely information regarding certain oversight and financial events.

If a school is still not financially responsible at the end of a period of provisional certification, the Department may again permit provisional certification. However, the Department may require the school or persons or entities that exercise substantial control over the school to submit financial guarantees to the Department to satisfy any potential liabilities arising from the school's SFA Program participation. The same persons may be required to agree to be jointly and severally liable for any SFA Program liabilities.

The Department is not required to offer provisional certification to a school. It is an alternative that the Department may offer the school instead of denying an application for recertification.

Provisional certification for school where persons or entities owe liabilities

If a school is not financially responsible because the persons or entities that exercise substantial control over the school owe an SFA Program liability, the Department may permit the school to participate under provisional certification if

- the persons or entities that owe the liability repay or enter into an agreement with the Department to repay the liability. In lieu of this, the school may assume the liability and repay or enter into an agreement to repay the liability;
- the school meets all the general standards of financial responsibility (except that the school must demonstrate that it has met all of its financial obligations and was current on its debt payments for its two most recent fiscal years; and
- the school submits to the Department a letter of credit, payable and acceptable to the Department, for an amount determined by the Department (this amount must be equal to at least 10% of the SFA Program funds received by the school during its most recent fiscal year).

The school must comply with the requirement under the zone alternative that the school provide timely information regarding certain oversight and financial events.

In addition, the Department may require the school or persons or entities that exercise substantial control over the school to submit financial guarantees to the Department to satisfy any potential liabilities arising from the school's SFA Program participation. The same persons may be required to agree to be jointly and severally liable for any SFA Program liabilities.

Again, provisional certification is offered to a school at the Department's discretion. The Department is not required to offer provisional certification to a school.

PAST PERFORMANCE AND AFFILIATION STANDARDS

As mentioned at the beginning of this chapter, in addition to meeting the numeric standards of financial responsibility, a school must also demonstrate that it administers properly the SFA Programs in which it participates and that it meets all of its financial obligations, including repayments to the department for debts and liabilities. A school's financial responsibility is also evaluated based on the past performance of the school and persons affiliated with the school. Certain past actions of a school or a person affiliated with a school may reveal mismanagement of SFA Program funds, thereby demonstrating that a school is not financially responsible.

Past performance of a school

A school is not financially responsible if the school

- has been subject to a limitation, suspension, or termination action, or entered into an agreement to resolve a limitation, suspension, or termination action initiated by the Department or a guaranty agency in the last five years,

- has had, in the last two SFA program reviews or audits, findings for the current fiscal year or its two preceding fiscal years, that required a repayment of more than 5% of the SFA Program funds received by the school for the year covered by the review or audit,

- has been cited during the last five years for failing to submit audits as required, and

- has failed to satisfactorily resolve any compliance problems identified in program reviews or audit reports, based upon a final decision of the Department.

Past performance of persons affiliated with a school

A school is not financially responsible if a person who exercises substantial control over the school (or any members of the person's family alone or together) owes a liability for an SFA Program violation, or has ever exercised substantial control over another school (or a third-party servicer) that owes a liability for an SFA Program violation, unless that person, family member, institution, or servicer demonstrates that the liability is being repaid in accordance with an agreement with the Department.

The Department may consider a school that does not meet this requirement to be financially responsible if the school

- notifies the Department that the person repaid to the Department an acceptable portion of the liability, in accordance with the regulations,

- notifies the Department that the liability is currently being repaid in accordance with a written agreement with the Department, or

- demonstrates to the satisfaction of the Department 1) why the person who exercises substantial control should nevertheless be considered to lack that control, or (2) why the person who exercises substantial control and each member of that person's family does not or did not exercise substantial control over the institution or servicer that owes the liability.

Family

A member of a person's family is a parent, sibling, spouse, child, spouse's parent or sibling, or sibling's or child's spouse.

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In the past, schools were required to maintain fidelity bond coverage for its employees. This is no longer a federal requirement for schools that participate in the SFA Programs. However, some schools are still required to maintain fidelity bond coverage because state laws require it. Even if it is not required to do so, a school may choose to maintain fidelity bond coverage to protect itself when losses occur resulting from a lack of integrity, honesty, or fidelity on the part of the school's employees or officers.

A school must report any changes of control under which a person acquires the ability to affect substantially the actions of the school. Such changes in control could call into question the school's financial responsibility. (For more information, see Chapter 10.)

FINANCIAL STATEMENTS

All financial statements are received by the Document Receipt and Control Center (DRCC). The Department screens all financial statements. A preliminary calculation of the school's composite score is made and a determination whether the statements are materially complete based on a checklist of minimum requirements is performed. In some cases a school may receive a more thorough analysis of their financial statements.

For more information regarding audit reporting and submission requirements refer to Chapter 11.

FOREIGN SCHOOLS

A foreign school must meet the financial responsibility standards for domestic schools unless the school received less than $500,000 (in United States dollars) in SFA Program funds during its most recently completed fiscal year. A school that received less than $500,000 will have its financial responsibility determined through the Department's examination of the school's audited financial statement for the school's most recently completed fiscal year, and may have its audited financial statement prepared according to the standards of the school's home country. A foreign school that received $500,000 or more in SFA Program funds during its most recently completed fiscal year must have its audited financial statement translated and presented for analysis under U.S. Generally Accepted Accounting Principles (GAAP) and Generally Accepted Government Auditing Standards (GAGAS).

Cash Management

CHAPTER 5

The cash management requirements govern a school's management of most SFA Program funds. These requirements establish rules and procedures that a school must follow in requesting, maintaining, disbursing, and otherwise managing funds under the Pell Grant, FSEOG, Perkins Loan, FWS, Direct Loan, and FFEL programs.

Cash Management
34 CFR Subpart K

Purpose of Requirements Cite
34 CFR 668.161

These cash management requirements are not applicable to the state grant and scholarship programs because, unlike other SFA Programs, the state grant and scholarship programs are administered by the states. Therefore, the Department allows states administrative discretion in the management of these funds, as long as the states administer these programs within the limits established by applicable federal statutes and regulations. These state programs are: The Special Leveraging Educational Assistance Partnership (SLEAP), the Leveraging Educational Assistance Partnership Program (formerly the State Student Incentive Grant [SSIG] Program), Robert C. Byrd Honors Scholarship (Byrd) Program, and the Gaining Early Awareness and Readiness For Undergraduate Programs (which replaces the National Early Intervention Scholarship and Partnership [NEISP] Program).

PURPOSE OF CASH MANAGEMENT REQUIREMENTS

The cash management requirements are intended to

- promote sound cash management of SFA Program funds by schools,
- minimize the costs to the government of making SFA Program funds available to students and schools, and
- minimize the costs that accrue to students who receive SFA loans.

The SFA Program funds received by a school are intended solely for the use of student beneficiaries, except for funds received as an administrative cost allowance, that are intended as a payment to the school, and funds used for the Job Location and Development Program under the FWS Program. (See the Administrative Cost Allowance discussion on page 2-85.) All other funds are held in trust by the school for students, the Department, and also, in the case of

FFEL Program funds, for lenders and guaranty agencies. SFA Program funds cannot be used as collateral or for any other purpose.

These rules and procedures also apply to a third-party servicer. For more information about third-party servicers, see the discussion in Chapter 2.

Requesting Funds Cite
34 CFR 668.162, except as noted

REQUESTING FUNDS

Currently, the Department provides Pell Grant, Direct Loan, and campus-based program funds to most schools either by the "advance payment method" or the "reimbursement payment method." A third method for requesting funds from the Department is the just-in-time payment method. A fourth method called "cash monitoring" will be discussed later. The Department has the sole discretion to determine the method under which SFA Program funds are provided to a school (although at this time, participation in the just-in-time payment method is voluntary).

Parent:
For purposes of the cash management requirements, a "parent" means a parent borrower under the PLUS Program.

The Advance Payment Method

Under the advance payment method, a school may submit a request for Pell Grant, Direct Loan, and campus-based program funds to the Department prior to disbursing aid to eligible students and parents. If the Department accepts a school's request for funds, it will make an electronic funds transfer (EFT) of the amount requested to a bank account designated by the school. A school may not request more funds than the school needs immediately for disbursements the school has made or will make to eligible students and parents. Therefore, a school must make the disbursements as soon as administratively feasible, but no later than three business days following the date the school received those funds.

The Department does not automatically accept a request for funds from a school under the advance payment method. For example, the Department may reject a request if the amount of the request exceeds the amount of funds the school is authorized to draw down.

The Reimbursement Method

Under the reimbursement method, a school must disburse Pell Grant, Direct Loan, and campus-based program funds to eligible students and parents before requesting funds from the Department. Generally, the Department places a school on the reimbursement payment method if it determines that there is a need to monitor strictly the school's participation in the SFA Programs. The school cannot request more cash than the amount that it actually disbursed to those eligible students and parents. As part of the school's request the school must

- identify the students and parents for whom it is seeking reimbursement, and
- submit documentation demonstrating that each student and parent included in the request was eligible to receive and has

received the SFA Program funds for which reimbursement is requested.

Before approving a school's request for funds, the Department determines that the school has

- accurately determined the SFA eligibility of each student,
- accurately determined the SFA payment to each student and parent included in its request, and
- submitted the required documentation.

Limitations on use of FFEL Funds

There are comparable limitations on the use of FFEL funds. If a school is placed on reimbursement, or a school that participates only in the FFEL Program has most of the limitations of reimbursement placed on it, the school

- may not disburse FFEL Program funds to a borrower until the Department approves the school's request to disburse funds to that borrower, and
- if prohibited by the Department, may not certify a loan application for a borrower until the Department approves the school's request to make the certification for that borrower (this restriction applies on the date that the Department notifies a school that it must obtain approval from the Department to certify loan applications).

Limitations on use of FFEL Funds
Cite
34 CFR 668.167(d)

The school must provide documentation demonstrating that each borrower included in the request is eligible to receive the disbursement or certification. The documentation must be provided to the Department or an entity approved by the Department for that purpose (for example, a certified public accountant, financial aid consultant, or guaranty agency).

Until the Department approves a request, the school may be

- prohibited from endorsing a master check or obtaining a borrower's endorsement of any loan check the school receives from a lender,
- required to maintain loan funds that it receives from a lender via EFT in a separate bank account, and
- prohibited from certifying a borrower's loan application.

Because the school's submission and the Department's review of documentation to support a borrower's eligibility takes time, the school may delay returning FFEL Program funds provided by EFT or master check to a lender for a specified period of time (see *Volume 8 — FFEL/DL*).

The Cash Monitoring Payment Method

Final regulations published November 25, 1997 introduced the cash monitoring payment method. This payment method is similar to the reimbursement payment method, but less onerous. Like the reimbursement payment method, under the cash monitoring payment method, a school must first make disbursements to eligible students and parents before it requests or receives funds for those disbursements from the Department.

Unlike the reimbursement payment method, where a school must provide specific detailed documentation for each student to whom it made a disbursement before the Department provides SFA Program funds to the school, the Department provides funds to a school in one of two ways:

- the Department allows a school to make a draw of SFA program funds for the amount of the disbursements the school has made to eligible students and parents, or

- the Department reimburses the school for those disbursements based on a modified and streamlined review and approval process.

For example, instead of requiring a school to provide specific documentation for each student to whom the school made a disbursement and reviewing that documentation before providing funds to the school, the Department may simply require the school to identify those students and their respective disbursement amounts and provide SFA Program funds to the school based solely on that information.

A school that is placed under the cash monitoring payment method is subject to the disbursement and certification provisions that apply to FFEL Program funds when a school is placed on reimbursement, but in keeping with the nature of cash monitoring, the Department may modify those provisions.

Note that the Department may tailor the required documentation requirements on a case-by-case basis.

The Just-In-Time payment method

The just-in-time payment method was introduced in the November 29, 1996 final regulations. In "Dear Colleague" letter P-98-5, the Department invited schools to consider volunteering to be the first participants in the just-in-time payment method by participating in a pilot program starting in the 1999-2000 award year. Pilot participants will use the just-in-time payment method for the Pell Grant Program only. The pilot program is part of the implementation of the new Federal Pell Grant Program Recipient Financial Management System (RFMS). For more information on RFMS, see *Volume 1 — Student Eligibility.*

Under the just-in-time payment method pilot, a school will submit a disbursement record (the disbursement record will be both a report of a disbursement and a request for funds) no earlier than 5 days before the actual reported date of disbursement. For each request the Department accepts for a student or parent, the appropriate amount of funds will be deposited directly into the school's bank account.

Schools participating in the just-in-time payment method pilot will be exempt from the following regulatory requirements with respect to Federal Pell Grant funds:

(1) the "three-day-use" rule required for the advance payment method. (Section 668.162(b)(3). See page 2-66.)

(2) the recertification of student eligibility at the time of disbursement (an institution may rely on its determination at the time it submits the disbursement record for Federal Pell Grant funds). (Section 668.162(c)(3)).

(3) the requirement that an institution maintain Federal Pell Grant funds in an interest-bearing bank account. (Section 668.163(c)(3)(iii). See page 2-71.)

(4) the excess-cash rules (Section 668.166(a)(2). See page 2-84.)

Using this payment method, schools will have only a nominal amount of excess cash created by minor period adjustments. Since the Department will modify new requests for funds after deducting any adjustments reported by the school, large amounts of excess cash should not occur.

For pilot participants, this regulatory relief does not extend to SFA programs other than the Pell Grant Program.

The just-in-time payment method will enable the delivery system to provide the most current payment information to students and other system users, thereby reducing burden related to the reconciliation of payment data. By providing funds based on current student-level data, this payment method will strengthen the Department's ability to monitor the integrity of the SFA Programs by reducing the potential for the misuse of funds.

The Department's long-term goal is for all schools, except those using the reimbursement or cash-monitoring payment method, to participate in the Federal Pell Grant Program using the Just-In-Time payment method.

GAPS

To facilitate implementation of the Education Central Automated Processing System (EDCAPS), section 668.162(a)(2) of the Student Assistance General Provisions regulations requires that each time a school requests funds from the Department, the school must identify the amount of funds requested by SFA Program using the program and fiscal year designation (grant award number) that the Department assigned to the authorized funds.

In May 1998, the Department converted to the Education Central Automated Processing System (EDCAPS). Within EDCAPS is the new Grants Administration and Payments System (GAPS), a state-of-the-art delivery system that supports Title IV award and payment administration. GAPS provides on-line capabilities to request payments, adjust drawdowns, and report expenditures from the Department. It also provides continuous access to current grant and payment information, such as authorization amounts, cumulative drawdowns, current award balances, and payment histories.

Schools that participate in SFA programs that require them to submit a payment request, such as Pell Grants or campus-based programs, use GAPS to request funds. Direct Loan funds can be drawn through the GAPS system. GAPS can be accessed through the Internet at the GAPS web page: http://gapsweb.ed.gov. The GAPS web page also provides in-depth information on the GAPS system as well as training information for the payment request process, including the GAPS Payee's Guide (http://gapsweb.ed.gov/training). The GAPS Payee Hotline number is 1-888-336-8930.

Maintaining and Accounting for Funds Cite
34 CFR 668.163

MAINTAINING AND ACCOUNTING FOR FUNDS

All schools must maintain a bank account into which the Department transfers, or the school deposits, SFA Program funds. The account must be federally insured or secured by collateral of value reasonably equivalent to the amount of SFA Program funds in the account. A school is not required to maintain a separate account for SFA Program funds unless the Department specifies otherwise.

A school is not required to maintain a separate bank account for FFEL Program funds that the school receives from a lender by EFT. A school must maintain and account for FFEL Program funds in the same manner required for other SFA Program funds.

Bank Account Notification Requirements

For each account that contains SFA Program funds, a school must identify that SFA Program funds are maintained in the account by

- including the phrase "federal funds" in the name of the account, or

- notifying the bank or investment company of the accounts that contain SFA Program funds and keeping a copy of this notice in its records *and*, except for public institutions, filing an UCC-1 statement with the appropriate state or municipal government entity that discloses that an account contains federal funds.

The school must keep a copy of the UCC-1 statement in its records.

The requirement that a school file a UCC-1 statement when an account's name does not include the phrase "federal funds" was established to reduce the possibility that a school could misrepresent federal funds as its own funds to obtain a loan or secure credit. Because public institutions generally do not seek to obtain credit in the same manner as private institutions, they are exempt from the requirement.

The Department may require a school to maintain SFA Program funds in a separate account that contains only SFA Program funds if the Department determines that the school failed to comply with cash management requirements, recordkeeping and reporting requirements, or other applicable program regulations.

Interest-bearing or Investment Account

Except in the instances discussed below, the account that Direct Loan, Pell Grant, FSEOG, and FWS program funds are deposited in must be an interest-bearing account or an investment account. An investment account must consist predominately of low-risk income-producing securities. If a school chooses to maintain federal funds in an investment account, the school must maintain sufficient liquidity in that account to make required disbursements to students.

Any interest earned on Direct Loan, Pell Grant, FSEOG, and FWS program funds maintained in an interest-bearing account or an investment account that exceeds $250 per year, must be remitted to the Department by June 30 of that award year. A school may keep up to $250 per year of the interest or investment revenue earned (other than that earned on Perkins Loan funds) to pay for the administrative expense of maintaining an interest-bearing account. However, a school must keep any interest earned on Perkins Loan funds for transfer to the Perkins Loan Fund.

Exceptions

A school is not required to maintain Direct Loan, Pell Grant, FSEOG, and FWS program funds in a interest-bearing account or an investment account for an award year if

- the school drew down less than $3 million from these funds in the prior award year and anticipates that it will not draw down more than $3 million in the current award year,
- the school can demonstrate that it would not earn over $250 in interest on the funds it will draw down during the award year, or
- the school requests these funds under the just-in-time payment method.

Schools that request funds under the just-in-time payment method are exempt because this method would ensure the expeditious accounting and disbursement of program funds. Therefore, little or no interest would be earned on funds provided to the school.

Federal Perkins Loan Program Participants

A school that participates in the Perkins Loan Program must always maintain an interest-bearing account or an investment account for Perkins Loan funds. If a school is also required to maintain an interest-bearing account or investment account for other federal funds, the school may use one account for Perkins Loan funds and all other federal funds. However, if the school chooses to maintain one account, it must determine the exact amount of any interest earned on the Perkins Loan funds for transfer to the Perkins Loan Fund.

Accounting and Financial Requirements

If a school is not required and does not choose to maintain separate accounts, it must maintain accounting and internal control systems that

- identify the balance of the funds of each SFA Program that are included in the school's bank or investment account as readily as if those funds were in a separate account, and

- identify earnings on SFA Program funds in the school's bank or investment account.

A school must maintain its financial records in accordance with the recordkeeping requirements of 34 CFR 668.24 (see Chapter 8).

Disbursing Funds Cite
34 CFR 668.164

DISBURSING FUNDS

These disbursing requirements apply to all the SFA Programs specified at the beginning of this chapter, except for the FWS Program. A school must follow the disbursement procedures in 34 CFR 675.16 for paying a student his or her wages under the FWS Program (see *Volume 6 — Federal Work Study*).

Definition of Disbursed

SFA Program funds are disbursed when a school credits a student's account with the funds or pays a student or parent directly with

- SFA Program funds received from the Department,

- FFEL funds received from a lender, or

- institutional funds labeled as SFA Program funds in advance of receiving actual SFA Program funds (except in the instances noted below).

It is important to distinguish when SFA Program funds have been disbursed for a number of reasons. To begin with, once SFA Program funds have been disbursed, a student becomes an SFA recipient and the rights and responsibilities of an SFA recipient are in effect. For example, if the student is an SFA loan recipient, he or she assumes responsibility for the loan (and all interest accruing on the loan if it is unsubsidized), and has the right to cancel the loan. In addition, knowing when an SFA disbursement occurs will allow a school to determine when it must comply with regulatory requirements related to disbursements and other cash management issues.

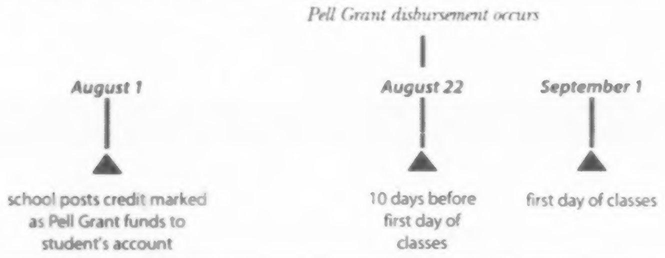
This definition of "disbursed" makes clear that any funds labeled as SFA Program funds *are* SFA Program funds.

Exceptions

However, because of other SFA Program requirements, there are two instances when crediting institutional funds labeled as SFA Program funds to a student's account in advance of receiving the actual SFA Program funds will not result immediately in an SFA disbursement:

- If a school credits a student's account with the institutional funds in advance of receiving SFA Program funds earlier than 10 days before the first day of classes of a payment period, the SFA disbursement occurs on the tenth day before the first day of classes. See the example below. (This provision corresponds to the early disbursement requirements. See page 2-78.)

Advance Credit to Account Example


Pell Grant disbursement occurs
August 1
August 22
September 1
school posts credit marked as Pell Grant funds to student's account
10 days before first day of classes
first day of classes

- For a student whose loan funds are subject to the 30-day disbursement delay, if a school credits the student's account with institutional funds in advance of receiving SFA Program funds earlier than 30 days after the first day of the payment period, the SFA loan disbursement occurs on the 30th day after the beginning of the payment period.

Note: If a school simply makes a memo entry for billing purposes or credits a student's account and does not identify it as an SFA credit (for example, an "estimated Federal Pell Grant") the disbursement does not occur until the posting is subsequently converted to an actual credit. If the posting is never converted to an actual credit, it never becomes an SFA Program disbursement.

Disbursement by Crediting a Student's Account

When a school disburses SFA Program funds to a student by crediting a student's account, it may only do so for allowable charges. Funds in excess of the allowable charges must be paid directly to the student, unless otherwise authorized by the student. (An exception for the payment of prior year charges is discussed on page 2-80.)

Allowable Charges

Allowable charges are

Current charges:
Charges assessed the student by the school for the current award year or the loan period for which the school certified or originated a FFEL or Direct Loan.

- current charges for tuition and fees (as defined in section 472 of the Higher Education Act of 1965, as amended [HEA]), room and board (if the student contracts with the school), and
- other current charges that a student incurs for educationally related activities, if the school obtains the student's or parent's authorization to have such charges credited with SFA Program funds.

In other words, if a charge does not meet the definition of tuition and fees in Section 472 of the HEA (with the exception of contracted room and board charges), the school must obtain the student's permission (or parent's, if applicable) to credit the student's account with SFA Program funds for the charges.

Disbursing SFA Funds Directly

In addition to crediting a student's account, SFA Program funds may be disbursed directly to a student or parent. A school may disburse funds "directly" by one of four methods:

- releasing a check provided to the school by a FFEL Program lender to the student or parent;
- issuing a check or other instrument payable to and requiring the endorsement or certification of the student or parent. (A check is issued if the school releases or mails the check to a student or parent, or notifies the student or parent that the check is available for immediate pickup.);
- initiating an electronic funds transfer (EFT) to a bank account designated by the student or parent; and
- paying the student in cash, provided that the school obtains a signed receipt from the student or parent.

A parent borrower of PLUS Loan funds may authorize the school to transfer PLUS Loan funds to a bank account in the student's name.

Note that the law requires a school that disburses Direct Loans to student accounts to first use Direct Loan funds to pay for outstanding allowable charges. This does not mean that Direct Loan funds must be credited to a student's account prior to other funds. The law simply requires that if there is any outstanding balance for current or authorized charges on the student's account when Direct Loan funds are disbursed, the Direct Loan funds must be applied to those outstanding charges before any Direct Loan funds may be disbursed directly to the borrower.

DISBURSEMENT BY PAYMENT PERIOD

Schools must disburse all SFA Program funds (except FWS) on a payment period basis (for more information on the definition of a payment period, see Chapter 2). However, disbursement requirements vary by program. For information on the specific effects of the payment period disbursement requirement on disbursement of funds under a particular SFA Program, please see the applicable Handbook chapter.

Disbursement by Payment Period Cite
34 CFR 668.164(b)

Exemptions to Multiple Disbursement Requirements
Sec. 428G(a)

The Higher Education Amendments of 1998, Public Law 105-244 (the Amendments) provide exemptions, under certain circumstances, to schools with low default rates from multiple disbursement requirements and the 30-day delay requirements. For more information, see *Volume 8 — FFEL/DL*.

Unless a student is eligible to receive a late disbursement of SFA Program funds, a school may disburse SFA Program funds to a student or parent for a payment period only if the student is enrolled for classes for that payment period and is eligible to receive those funds.

Excused Absences

An excused absence (an absence that does not have to be made up) may be counted as a completed clock hour under certain circumstances. For a student enrolled in a program measured in clock hours, the school may include clock hours for which the student has an excused absence in determining whether the student completes the clock hours in the payment period if

- the school has a written policy that permits excused absences, and

- for SFA purposes, the number of excused absences under the policy does not exceed the lesser of

    Δ the policy on excused absences of the school's designated accrediting agency,
    Δ the policy on excused absences of any state agency that legally authorizes the school to operate, or
    Δ 10% of the clock hours in the payment period.

An excused absence may only be counted if the student is excused from hours that were actually scheduled, missed, and not to be made up.

Early Disbursements Cite
34 CFR 668.164(f)

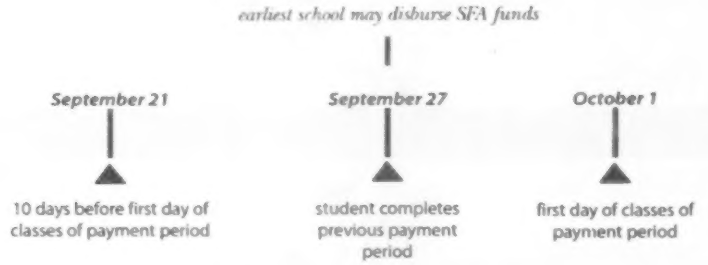
EARLY DISBURSEMENTS

The earliest a school may disburse SFA Program funds is

- for a student enrolled in a credit-hour program offered in semester, trimester, or quarter academic terms, 10 days before the first day of classes for a payment period.
- for a student enrolled in a clock hour program or a credit-hour program that is not offered in semester, trimester, or quarter academic terms, the later of 10 days before the first day of classes for the payment period, or the date the student completed the previous payment period for which he or she received SFA Program funds (see the example below).

This provision generally applies only to the first disbursement of an FFEL or Direct Loan. (This requirement is applicable to any payment period beginning on or after July 1, 1997.)

Early Disbursement Example


earliest school may disburse SFA funds
September 21
September 27
October 1
10 days before first day of classes of payment period
student completes previous payment period
first day of classes of payment period

Note that if a student is in the first year of an undergraduate program and is a first-time borrower under the FFEL or Direct Loan program, a school may not disburse the first installment of his or her loan until 30 days after the student's first day of classes.

Late Disbursements Cite
34 CFR 668.164(g)

LATE DISBURSEMENTS

A student who withdraws or otherwise ceases attendance has lost SFA eligibility and generally may not be paid further funds for the enrollment period. However, a late disbursement of SFA Program funds may be made to an ineligible student if the student became ineligible only because

- for purposes of the Direct Loan and FFEL programs, the student is no longer enrolled at the school as at least a half-time student for the loan period, and
- for purposes of the Pell Grant, FSEOG, and Perkins Loan programs, the student is no longer enrolled at the school for the award year.

In addition, other conditions must be met depending on the SFA Program from which the late disbursement is to be made. The following chart lists these conditions:

Late Disbursements

Program	***A late disbursement may be made if, before the date the student becomes ineligible...***		
Direct Loans*	SAR or ISIR with official EFC is received (all programs)	electronic origination record is created	For a first-year, first-time borrower, student completed first 30 days of program
FFEL Loans*		loan application is certified	
Pell		Valid SAR or ISIR is received	
SEOG		Student is awarded grant	
Perkins		Student is awarded loan	

**A school may not make a late second or subsequent disbursement of a Direct Subsidized or Direct Unsubsidized loan, or a FFEL Stafford Loan, unless the student has graduated or successfully completed the period of enrollment for which the loan was intended.*

A school may make the late disbursement only if the funds are used to pay for unpaid educational costs that the school determines the student incurred for the period in which the student was enrolled and eligible. A school is not required to obtain detailed expenditure documentation from the student. Instead, the school may develop a policy that it applies in all cases. For example, a school may adopt a policy that all expenses for books and supplies are considered to have been incurred by a student who withdraws after the first two weeks of the term (provided that this policy does not conflict with any applicable refund requirements).

The school must make the late disbursement to the student no later than 90 days after the date that the student becomes ineligible. For a FFEL, this means that the funds would have to be disbursed to the school by the lender to provide sufficient time for the school to disburse the funds to the student within 90 days.

NEW

The term "post-withdrawal disbursement" was created as a result of the negotiated rule making process of the Higher Education Amendments of 1998. Basically, a "post-withdrawal disbursement" is an amount of Title IV aid that a student has earned by virtue of the Return of Title IV Funds calculation, but was not disbursed before

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the student withdrew. It is integral to the new Return of Title IV Funds concept. This term is not a late disbursement, and should not be confused as such. See additional comments and summaries in the Chapter 6.

Credit Balances Cite
34 CFR 668.164(e)

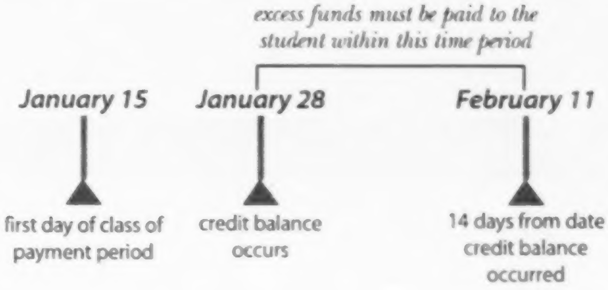
SFA CREDIT BALANCES

Whenever a school credits SFA Program funds to a student's account, and those funds exceed the student's allowable charges, an SFA credit balance occurs. A school must pay the excess SFA Program funds (the credit balance) directly to the student as soon as possible, but no later than 14 days after the later of

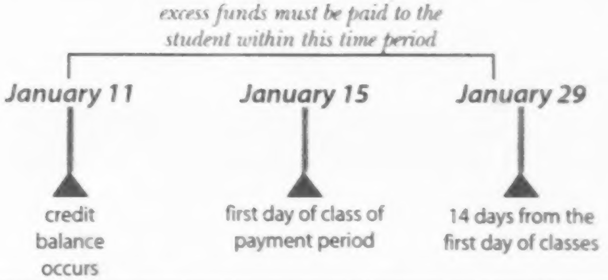
- the date the balance occurred on the student's account, if the balance occurred after the first day of class of a payment period (see Example 1 below), or

Payment of a Credit Balance Example

1


excess funds must be paid to the student within this time period
January 15
January 28
February 11
first day of class of payment period
credit balance occurs
14 days from date credit balance occurred

2


excess funds must be paid to the student within this time period
January 11
January 15
January 29
credit balance occurs
first day of class of payment period
14 days from the first day of classes

- the first day of classes of the payment period if the credit balance occurred on or before the first day of class of that payment period (see Example 2 below).

Note that an SFA credit balance occurs only if the total amount of SFA Program funds exceeds allowable charges. For example, if a student's total allowable charges are $1500, and credits to the student's account comprise $1000 in FSEOG, $500 in state aid funds, and $500 in Pell Grant funds, although there is an excess of $500 on the account, an SFA credit balance would not exist. This is because the total amount of SFA Program funds ($1500) does not by itself exceed the amount of allowable charges ($1500). If, in the example above, the amount of Pell Grant funds credited to the student's account was $600, rather than $500, an SFA credit balance of $100 would exist. One hundred dollars is the amount by which the total SFA Program funds credited to the account ($1600) would exceed the allowable charges ($1500). The order in which these funds were credited does not matter.

Note that the law requires that any excess PLUS Loan funds be returned to the parent. Therefore, if a school determines that PLUS Loan funds created a credit balance, the credit balance would have to be given to the parent. At this time, the Department does not specify how a school must determine which SFA Program funds create an SFA credit balance.

The Department does not address the treatment of credit balances that are created by non-SFA Program funds. However, under the SFA refund requirements, when a student withdraws, all credit balances must be eliminated before a refund calculation is performed. For information on the treatment of a credit balance when a student withdraws, see Chapter 6.

Holding Credit Balances

A school is permitted to hold excess funds (credit balances) if it obtains a voluntary authorization from the student or parent. If a school receives authorization to hold excess funds, the school must identify the student or parent and the amount of funds the school holds for the student or parent in a subsidiary ledger account designated for that purpose. The school must maintain, at all times, cash in its bank account at least equal to the amount the school holds for students. Because SFA Program funds are awarded to students to pay current year charges, notwithstanding any authorization obtained by a school from a student or parent, the school must pay

- any remaining balance on loan funds by the end of the loan period, and
- any other remaining SFA Program funds by the end of the last payment period in the award year for which they were awarded.

If a school cannot locate a student to whom an SFA credit balance must be paid (i.e., the school has exhausted all possible avenues to find the student), the school must return the credit balance to the Department. In this case, a school will have to determine which SFA Program funds created a credit balance before it can return funds to the SFA Programs. As mentioned previously, the Department does not specify how a school must determine which SFA funds create a credit balance. However, the Department encourages schools to return SFA Program funds to loan programs first to reduce the likelihood of default.

The school is permitted to retain any interest earned on the student's credit balance funds. The Department may prohibit a school that has been placed on reimbursement from holding excess funds. If the Department determines that the school has failed to meet the financial responsibility standards, a limitation may be placed on the school preventing it from holding excess funds for any student.

Prior-year Charges Cite
34 CFR 668.164(d)

PRIOR-YEAR CHARGES

In general, SFA Program funds are allowed to be used to pay only for educational expenses a student incurs in the period for which those funds are provided. However, a school is permitted to use a student's SFA Program funds to pay minor prior-year institutional charges if the student has, or will have, an SFA credit balance, and the school obtains the student's or parent's authorization to pay the prior-year charges.

A school may obtain authorization from a student in advance to use SFA Program funds to cover prior-year charges that are less than $100. To pay prior-year charges for amounts equal to or greater than $100, in addition to obtaining an authorization, a school must determine that payment would not prevent the student from paying for his or her current educational expenses.

Required School Notifications Cite
34 CFR 668.165

REQUIRED SCHOOL NOTIFICATIONS

Before a school disburses SFA Program funds for any award year, the school must notify a student of the amount of SFA Program funds the student and his or her parent can expect to receive from each SFA Program, and how and when those funds will be disbursed. If those funds include Direct Loan or FFEL Program funds, the notice must indicate which funds are from subsidized loans and which are from unsubsidized loans.

A school must provide the best information it has regarding the amount of SFA Program funds a student can expect to receive. Because the actual loan disbursements received by a student may differ slightly from the amount expected by the school (due to loan fees and rounding differences), a school may include the gross amount of the loan disbursement or a close approximation of the net disbursement amount.

Opportunity for Loan Cancellation

Because incurring a loan obligation is a serious responsibility, a borrower must be given the opportunity to cancel the loan at or close to the time the funds are actually disbursed and the debt incurred. Notification of when a loan disbursement occurs is required to remind borrowers of their loan obligation and to give students the opportunity to replace credited loan proceeds with other funds. Therefore, the school must notify a student or parent in writing or electronically whenever the school credits the student's account with Direct Loan, FFEL, or Perkins Loan program funds. The notification must include

- the date and amount of the disbursement;

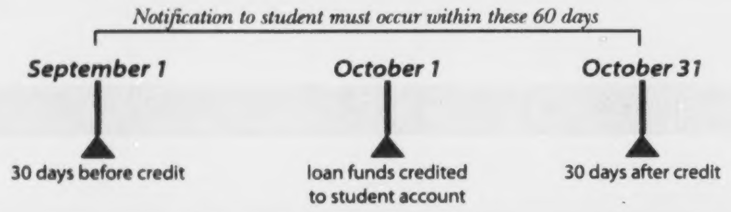
- the right of the student or parent borrower to cancel all or a portion of the loan. (This is applicable to FFEL Program funds only if the school received the loan funds from a lender through EFT payment or master check.); and

- the procedures and the time by which the student or parent borrower must notify the school that he or she wishes to cancel the loan or a portion of the loan.

A school is not required to provide notification of cancellation rights if the school disburses a FFEL directly to the student or parent by check. This is because a student or parent who receives a FFEL disbursement via check has the opportunity to refuse the funds by not endorsing the check or by returning the check.

This notification of crediting a student's account with loan funds must be sent no earlier than 30 days before and no later than 30 days after crediting the student's account (see example below). If a school notifies a borrower electronically, it must request that the borrower confirm the receipt of the notice and the school must maintain a copy of that confirmation. For example, if a school notifies a borrower through electronic mail, the school must request a "return receipt" message and keep a copy of the receipt on file.

Notification When Credit to Account Example


Notification to student must occur within these 60 days
September 1
October 1
October 31
30 days before credit
loan funds credited to student account
30 days after credit

A school may not use an in-person or telephonic conversation as the sole means of notification. In-person and telephonic conversations are not adequate and verifiable methods of providing notice. However, notification to borrowers in-person and by telephone may be done in addition to providing written or electronic notice.

Once the school has provided notification, if the student or parent wishes to cancel all or a portion of a loan, he or she must inform the school. The school must honor the request if the request is received no later than

- 14 days after the date the school sends the notice (see example 1 below), or

- the first day of the payment period, if the school sends the notice more than 14 days before the first day of the payment period (see example 2 below).

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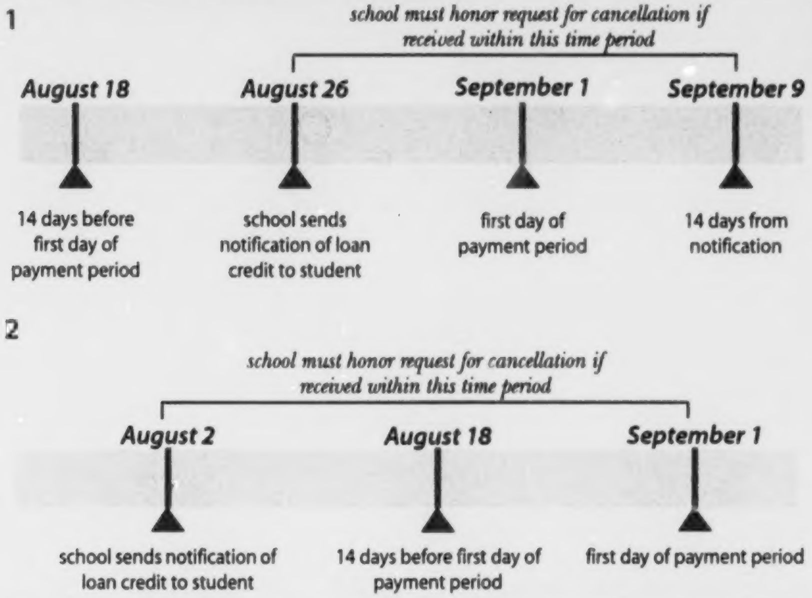
14 Day Cancellation Period Example


1
school must honor request for cancellation if received within this time period
August 18
August 26
September 1
September 9
14 days before first day of payment period
school sends notification of loan credit to student
first day of payment period
14 days from notification
2
school must honor request for cancellation if received within this time period
August 2
August 18
September 1
school sends notification of loan credit to student
14 days before first day of payment period
first day of payment period

If a student's or parent's request for cancellation is received within the specified time period, the school must return the loan proceeds and/or cancel the loan as appropriate. If a student's or parent's request for cancellation is received after the specified time period, the school may, but is not required to, honor the request. Regardless of when the request is received, the school must inform the student or parent, in writing or electronically, of the outcome of the request.

A school is not responsible for returning a portion of a loan that was disbursed to a student or parent directly before the request for cancellation was received. However, a school is encouraged to take an active role in advising the borrower to return the portion of funds already received.

Required Student Authorizations Cite
34 CFR 668.165

NEW

REQUIRED STUDENT AUTHORIZATIONS

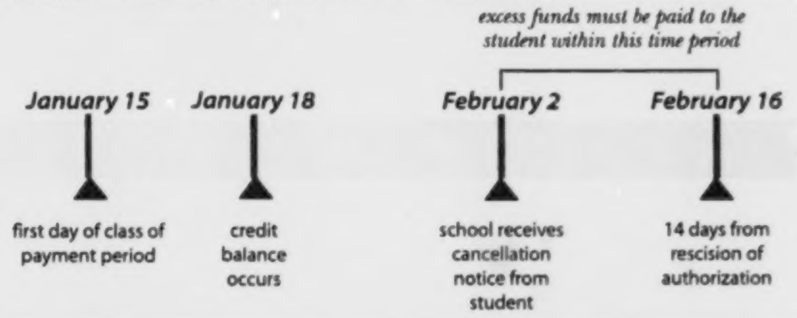
As discussed previously in this chapter, a school must obtain authorization from a student (or parent borrower) before

- disbursing SFA Program funds (including Federal Work-Study) by EFT to a bank account designated by the student or parent,
- using SFA Program funds (including Federal Work-Study) to pay for allowable charges other than tuition, fees and room and board (if the student contracts with the school),
- holding excess SFA Program funds (credit balances), and
- applying SFA Program funds to prior-year charges.

In obtaining an authorization from a student or parent, a school may not require or coerce the authorization and must notify the student or parent that he or she may cancel or modify the authorization at any time. Once a student or parent cancels or modifies his or her authorization, the school may not perform the function, or must perform the function as modified, from that date forward.

A cancellation or modification is not retroactive. If a student or parent cancels an authorization to use SFA Program funds to pay for allowable charges other than tuition, fees, and room and board (if the student contracts with the school), or prior-year charges, the school may use SFA Program funds to pay any authorized charges incurred by the student before the notice was received by the school. If a student or parent cancels an authorization to hold excess funds, the funds must be paid directly to the student or parent as soon as possible, but no later than 14 days after the school receives the notice (see example below).

Payment After Cancel Authorization Example


excess funds must be paid to the student within this time period
January 15
January 18
February 2
February 16
first day of class of payment period
credit balance occurs
school receives cancellation notice from student
14 days from rescision of authorization

A school may include two or more of the items that require authorization on one statement. However, a student (or parent borrower) must be informed that he or she may refuse to authorize any individual item on the statement.

Any authorization must clearly explain how the school will carry out an activity. It does not need to detail every aspect pertaining to the activity; however, a blanket authorization that only identifies the activities to be performed is not acceptable. For example, an authorization permitting a school to use excess SFA Program funds must provide detail that is sufficient to give the student (or parent) a general idea of what the excess funds would be used to pay. A blanket statement that excess funds would cover any charges is not acceptable.

Unless otherwise specified, a student or parent may authorize a school to carry out the activities for which authorization is provided for the entire period that the student is enrolled at the school. As mentioned above, a student or parent may cancel or modify an authorization at any time.

Excess Cash Cite
34 CFR 668.166

EXCESS CASH

As mentioned in the discussion of the advanced payment method, a school must disburse requested funds no later than three business days following the date the school receives the funds. "Excess cash" is any amount of SFA Program funds, other than funds received under the just-in-time payment method (see page 2-68), that a school does not disburse to students by the end of the third business day. Excess cash must be returned to the Department immediately. However, sometimes a school is prevented from disbursing funds in the required three days because of circumstances outside the school's control. For example, a school may not have been able to disburse funds because of a change in a student's enrollment status, a student's failure to attend classes as scheduled, or a change in a student's award as a result of verification. To take these circumstances into account, under the following circumstances, a school may maintain an excess cash balance for up to seven additional days.

Allowable Excess Cash Tolerances

For a period of peak enrollment (see below) at the school during which a drawdown of excess cash occurs, the school can maintain the excess cash balance in its federal account if the excess cash balance is less than 3% of the school's total prior-year drawdowns. The school is required to eliminate the excess cash balance within the next seven days by disbursing SFA Program funds to students for at least the amount of that excess cash balance.

A period of peak enrollment at a school occurs when at least 25% of the school's students start classes during a given 30-day period. A school determines this percentage for an award year with the following fraction:

$$\frac{\text{Number of students who started classes in the comparable 30-day period in the prior award year}}{\text{Total number of students who started classes during the entire prior award year}}$$

For any period other than a period of peak enrollment, the school can maintain the excess cash balance if the excess cash balance is less than 1% of the school's prior-year drawdowns. In this case also, the school is required to eliminate the excess cash balance within the next seven days by disbursing SFA Program funds to students for at least the amount of that balance.

If a school that is participating in the Direct Loan Program does not have prior-year drawdown data for the Direct Loan Program because it did not participate in the Direct Loan Program for that prior award year, the school may include the total amount of loans guaranteed under the FFEL Program for students attending the school during that year in determining total prior-year drawdowns.

The Department reviews schools to determine where excess cash balances have been improperly maintained and to seek recovery from those schools of the resulting losses to the government.

Upon a finding that a school has maintained an excess cash balance in excess of allowable tolerances, a school is required to reimburse the Department for the costs that the government incurred in making those excess funds available to the school. In addition, where excess cash balances are disproportionately large to the size of the school or represent a continuing problem with the school's responsibility to administer efficiently the SFA Programs, the Department may initiate a proceeding to fine, limit, suspend, or terminate the school's participation in one or more of the SFA Programs. (For more on fines and other actions against schools, see Chapter 11.)

Generally, a check is "issued" when the school releases, distributes, or makes available the check by mailing the check to the student or parent (if applicable), or by notifying the student or parent expeditiously that the check is available for immediate pickup. However, upon a finding that a school has maintained excess cash balances, the Department considers the school to have issued a check on the date that check cleared the school's bank account, unless the school demonstrates to the satisfaction of the Department that it issued the check to the student shortly after the school wrote that check.

Finally, the Department will assess a school that maintains excess cash balances a liability that is equal to the difference between the earnings those cash balances would have yielded under a Treasury-derived rate and the actual interest earned on those cash balances.

ADMINISTRATIVE COST ALLOWANCE

The Pell Grant Program

The Department pays an administrative cost allowance (ACA) to schools to offset some of the administrative costs related to the Pell Grant and campus-based programs. As defined in the regulations, the Pell Grant Program ACA is $5 for each Pell Grant recipient at the school (calculated by the Department, based on the number of Pell Grant recipients reported by the school). Schools are notified of their Pell Grant ACA by mail three times during the processing year. The Pell Grant allowance is paid directly to the school from the Federal Reserve. (For more information, see the *Volume 3 — Pell Grants.*)

Campus-based Allowance

A school calculates its own campus-based program ACA in its annual Fiscal Operations Report and Application to Participate (FISAP), based on a percentage of its campus-based expenditures in the previous award year (see *Volume 4 — Campus-based Programs, Common Provisions*). Unlike the Pell Grant ACA procedures, the school must draw down the campus-based ACA from its program allocation using the ED Payment System. (A school may use up to 10% of the FWS-based ACA for expenses incurred for its community service program.)

Return of Title IV Funds

CHAPTER 6

WITHDRAWALS*

This chapter explains how Title IV funds are handled when a recipient of those funds withdraws from school. This chapter has been revised completely to reflect the Higher Education Amendments of 1998.

The Higher Education Amendments of 1998, Public Law 105-244 (the Amendments of 1998) substantially changed the way funds paid toward a student's education are handled when a recipient of Title IV funds withdraws from school. Final regulations published November 1, 1999 implemented these statutory requirements.

Schools were not required to implement these new provisions until October 7, 2000. This chapter provides information for these new requirements. Schools that choose to follow the "old" (Refund and Repayment) requirements for the 2000-2001 award year up until October 7, 2000, should refer to the 1999-2000 Handbook for guidance.

The old provisions required schools participating in the Title IV Programs to use specific refund policies when a Title IV funds recipient withdrew. The school determined the amount of institutional charges it earned, the unearned amount, and the amount that had to be refunded. In addition, the old provisions specified an order of return of unearned funds from all sources of aid, not just the Title IV Programs.

The new requirements do not dictate an institutional refund policy. Instead, a statutory schedule is used to determine the amount of Title IV funds a student has earned as of the date he or she ceases

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*** Although elsewhere the Handbook refers to the "SFA Programs," rather than the "Title IV Programs," which is the term used in the law, this Chapter will use the term Title IV Programs to make it easier to use with the worksheets for the Treatment of Title IV Funds When A Student Withdraws.**

attendance. The amount of Title IV Program assistance earned is based on the amount of time the student spent in academic attendance; it has no relationship to the student's incurred institutional charges. Because these requirements deal only with Title IV funds, the order of return of unearned funds no longer includes funds from sources other than the Title IV Programs.

Up **through the 60%** point in each payment period or period of enrollment, a pro rata schedule is used to determine the amount of Title IV funds the student has earned at the time of withdrawal. **After the 60%** point in the payment period or period of enrollment, a student has earned 100% of the Title IV funds.

The new requirements do not prohibit a school from developing its own refund policy or complying with refund policies required by outside agencies.

Schools are still required to provide students with the details of all refund policies applicable at the institution as well as information on the Title IV Program requirements for determining the amount of Title IV funds a student has earned when he or she withdraws.

Early Implementation

As mentioned previously, schools are not required to implement these provisions until October 7, 2000 (two years from the enactment of the 1998 Amendments). The final regulations apply to any student who withdraws on or after October 7, 2000. Schools may, at their discretion, choose to implement the requirements earlier. If a school chooses to implement or has already implemented these provisions after publication of the November 1, 1999 final regulations but prior to October 7, 2000, the school—

- must implement the regulations in their entirety;
- must apply these regulations to **all students who withdraw on or after the date the school implements these regulations** (i.e., not on a student-by-student basis); and
- cannot revert back to the old provisions of §668.22.

The Department developed worksheets to assist schools in their implementation of the requirements of the final regulations (you can find blank worksheets at the end of this chapter). There is one worksheet for students who withdraw from credit-hour programs, and one for students who withdraw from clock hour programs. These worksheets are available in Portable Document File (PDF) format on the Department's "Information for Financial Aid Professionals" web site at http://ifap.ed.gov. This chapter will provide a discussion of the general requirements for the treatment of Title IV funds when a student withdraws and will then follow the steps in the worksheets.

In addition, in April of 2000, the Department released a test version of its Return of Funds software on its Information for Financial Aid Professionals website at http://ifap.ed.gov. The use of the Department's worksheets and/or the software is optional. Schools are not required to use either for the determination of the treatment of Title IV funds when a student withdraws.

General Requirements

If a recipient of SFA grant or loan funds withdraws from a school after beginning attendance, the amount of SFA grant or loan assistance earned by the student must be determined. If the amount disbursed to the student was is greater than the amount the student earned, unearned funds have to be returned. If the amount disbursed to the student is less than the amount the student earned, he or she is eligible to receive a post-withdrawal disbursement of the earned aid that was not received.

The change to the law makes clear that Title IV funds are awarded to a student under the assumption that the student will attend school for the entire period for which the assistance is awarded. When a student withdraws, the student may no longer be eligible for the full amount of Title IV funds that the student was originally scheduled to receive.

Consumer Information

A school must make available upon request to prospective and enrolled students a statement of

- any refund policy with which the school must comply,
- the requirements for the treatment of Title IV funds when a student withdraws, and
- the requirements and procedures for officially withdrawing from the school.

Because these new provisions no longer effect institutional refund policies, the school must provide the student with information on both the Title IV requirements and the school's refund requirements. A school should include some discussion of how the Title IV requirements and the school's refund requirements interact, including how the school might adjust a student's charges to take into account repayments of Title IV funds that the school was required to make.

Consumer Information Cite
Section 485(a)(1)(F), 34 CFR 668.43]
For more information see chart on Institutional and Financial Assistance Information for Students at the end of Chapter 7.

Foreign Schools

Foreign schools participating in the Title IV Programs are also subject to the requirements for the treatment of Title IV funds when a student withdraws. The final regulations explain that lenders are allowed to make FFEL program loan disbursements directly to a

Lender Notification to Foreign Schools Cite
34 CFR 682.207

student who is attending a foreign school. This provision was added because, as a result of these direct disbursements, a foreign school would not necessarily know that a student had received a disbursement and would not be able to properly determine the return of Title IV funds if the student withdrew. Now, a lender making a direct disbursement to a student attending a foreign school must notify the school of the disbursement was made. As a part of the notification, the lender must provide the information necessary for the school to determine the amount of Title IV funds that the student has earned if the student withdraws. This information is:

- the name and social security number of the student;
- the name and social security number of the parent borrower, if the loan disbursed is a PLUS loan;
- the type of loan;
- the amount of the disbursement, including the amount of any fees assessed the borrower;
- the date of the disbursement; and
- the name, address, telephone number, and fax number or electronic address of the lender, servicer, or guaranty agency to which any inquiries should be addressed.

Recipient of SFA Grant or Loan Assistance

A student for whom the requirements of 668.164(g)(2) have been met.

Definition of a Title IV Recipient

These requirements for the treatment of Title IV funds when a student withdraws apply to any recipient of SFA grant or loan funds who withdraws. For purposes of these requirements, a "recipient of grant or loan assistance" is a student who has actually received Title IV funds **OR** has met the conditions that entitle the student to a late disbursement. These conditions are listed in a chart on Late Disbursements in Chapter 5 of this volume.

These requirements apply only to the receipt of or qualification for aid that could be included in the calculation. For example, the requirements of §668.22 do not apply to Federal Work-Study funds. Therefore, a student would not be considered a SFA recipient if the only Title IV Program assistance that the student had received or could have received was FWS funds. For more information on the types of Title IV Program assistance included in the calculation, see the discussion of "Funds to Include in the Calculation" under Step 1.

Rounding

Monetary amounts are to be reported in dollars and cents using standard rounding rules to round to the nearest penny. Final repayment amounts that the school and student are each responsible to return may be rounded to the nearest dollar.

Percentages are calculated to three decimal places. The third decimal place is rounded up if the fourth decimal place is 5 or above. For example, .4486 would be rounded to .449, or 44.9 percent.

Note: The one exception to this rule is in the determination of the percentage of Title IV Program assistance earned. A student who withdraws at any point **after the 60%** point in the payment period or period of enrollment has earned 100% of their Title IV funds. If the standard rounding rules were used in this situation, a quotient of .6001 through .6004, (which is greater than 60%), would be rounded down to .600 (60%). Therefore, to recognize that students completing more than 60% of the period (by any amount) earn 100% of their Title IV Program assistance, **amounts of .6001 through .6004 are not rounded.**

Basic Information

From this point on, this chapter will discuss issues in the order in which they occur on the worksheets.

Date of the institution's determination that the Student Withdrew

Some aspects of the withdrawal process cannot occur until the school is aware that the student has withdrawn. For example, a school cannot be expected to return Title IV funds for a withdrawn student unless the school knows that the student is no longer in attendance. The "date of the institution's determination that the student withdrew" captures the point in time when a school could reasonably be expected to be aware that a student withdrew.

The date of the institution's determination that the student withdrew varies depending on the type of withdrawal. For example, if a student who provides official notification to the school of his or her intent to withdraw, the date of the institution's determination that the student withdrew would be the same as the student's withdrawal date. If a student who did not provide notification of his or her withdrawal, the date of the institution's determination that the student withdrew would be the date that the school becomes aware that the student ceased attendance. The types of withdrawal and the corresponding definition of the date of the institution's determination that the student withdrew are listed in the chart on Withdrawal Dates at the end of this chapter. Note that, for a student who withdraws without providing notification to the school, the school must determine the withdrawal date no later than 30 days after the end of the earlier of 1) the payment period or period of enrollment (as applicable), 2) the academic year, or 3) the student's educational program.

As noted above, the "date of the institution's determination that the student withdrew" is not necessarily the same as a student's withdrawal date. A student's withdrawal date is used to determine the percentage of the payment period or period of enrollment completed and, therefore, the amount of aid a student has earned. **The date of the institution's determination that the student withdrew is used in the following circumstances:**

- A school must offer any amount of a post-withdrawal disbursement that is not credited to the student's account within 30 days of this date;
- If the student or parent submits a timely response that instructs the school to make all or a portion of the post-withdrawal disbursement, the school must disburse the funds within 90 days of this date;
- A school must document a student's withdrawal date and maintain the documentation as of this date;
- Within 30 days of this date, a school must notify a student if a grant overpayment is due;
- A school that is collecting an overpayment must require repayment of the full amount of the overpayment within two years of this date;
- The school must return the amount of Title IV funds for which it is responsible no later than 30 days after this date; and
- The amount of aid disbursed as of this date is used to determine the amount of unearned aid that must be returned.

Use of Payment period or Period of Enrollment

The worksheets have a school indicate whether the calculation is being done on a payment period or period of enrollment basis. For students who withdraw from standard term-based educational programs (semester, trimester, or quarter), a school must determine the treatment of the student's Title IV Program assistance on a payment period basis. For students who withdraw from a nonstandard term-based or non-term based educational program, the school has the choice of determining the treatment of the student's SFA, program assistance on either a payment period basis or a period of enrollment basis. The same period is used for all purposes of the calculation.

Payment period

The definition of a payment period is the same definition used for other Title IV Program purposes. This definition is found in 34 CFR 668.4. For more information, see Chapter 2.

Period of enrollment

For students who withdraw from a nonstandard term-based or non-term based educational program, the school has the choice of determining the treatment of the student's Title IV Program assistance on either a payment period basis or a period of enrollment basis. The school must use the chosen period consistently **for all students** in the program, except that a school may make a separate selection of payment period or period of enrollment for the calculations for students who transfer to the school and for those who reenter the school for students who attend a nonterm-based or a nonstandard term-based educational program.

Period of Enrollment

The academic period established by the school for which institutional charges are generally assessed (i.e., length of the student's program or academic year)

For example, a school using a payment period for the students who have been in attendance from the beginning of the program may decide to use a period of enrollment for transfer and reentry students because these students are more likely to have a short, non-standard payment period that would have to be completed before their schedules could fit into the standard payment periods at the school. **The periods used for transfer and re-entry students do not have to be the same.** A school may choose to use a payment period for transfer students and a period of enrollment for re-entry students.

Applicability

The use of a payment period or period of enrollment is important for many aspects of the calculation. For example, if a school is determining the treatment of Title IV funds on a payment period basis, the student's Title IV Program assistance that is used in the calculation is the aid that is disbursed or that could have been disbursed for the payment period. Also, the institutional charges used in the calculation would have to reflect the charges for the payment period. Additional guidance is provided in the following discussions.

Step 1: Student's Title IV Aid Information

The worksheet begins by gathering information about the student's Title IV aid grant and loan assistance.

Funds to Include in the Calculation

The calculation of earned Title IV Program assistance includes all SFA grant and loan funds that were disbursed or that could have been disbursed to a student. Federal Work-Study (FWS) funds are not included in the calculation. In addition, Federal Supplemental Educational Opportunity Grant (FSEOG) program funds and Leveraging Education Assistance Partnership (LEAP) program funds, formerly known as the State Student Incentive Grant (SSIG) program funds, are excluded under certain circumstances.

FSEOG Program Funds

The non-Federal share of FSEOG program funds are excluded when a school meets its FSEOG matching share by either the individual recipient method or the aggregate method. In other words, if a school meets its matching share requirement by putting funds in the FSEOG fund (otherwise known as the fund-specific matching method), those funds must be included; otherwise, the non-Federal share of FSEOG awards is excluded from the calculation. For more information on FSEOG funds see the SFA Handbook: Campus-Based Programs Reference.

LEAP Program Funds

Funds from the LEAP program must be treated in accordance with the guidance of Dear Colleague Letter GEN-89-38, which addresses the treatment of LEAP funds when a student withdraws. This policy provides that, if a State agency specifically identifies a student's State grant as LEAP funds, the entire amount of the grant must be included in the calculation of earned Title IV funds. If a school does not know whether a particular student's State grant contains LEAP funds, the grant would not have to be included in the calculation. The Department will provide updates to the guidance of GEN-89-38 once these regulations are final.

Title IV Aid Disbursed or that Could Have Been Disbursed

A school must calculate the amount of earned Title IV funds by applying a percentage to the total amount of Title IV Program assistance that was disbursed, or that could have been disbursed. Under Step 1 of the worksheet, a school fills in the amount of each type of Title IV aid that was disbursed or that could have been disbursed. **When entering the amount of loan funds, a school should enter the net amount** disbursed or that could have been disbursed. The determination of which funds were disbursed, versus those that could have been disbursed is made as of the date of the school's determination that the student withdrew.

Title IV Aid Disbursed

Generally, a student's Title IV funds are disbursed when a school credits a student's account with the funds or pays a student or parent directly with:

- Title IV funds received from the Department,
- FFEL funds received from a lender, or
- Institutional funds labeled as Title IV funds in advance of receiving actual Title IV funds.

There are a couple of exceptions to this definition. For a complete discussion of the definition of disbursed Title IV funds, see Chapter 5.

A student's aid is counted as "disbursed" for the calculation if it is disbursed as of the date of the institution's determination that the student withdrew. Using the date of the institution's determination that the student withdrew rather than the student's withdrawal date, allows the school to delay returning inadvertent overpayments made to a student who is no longer in attendance. For example, a student dropped out on a Friday. Because the school was unaware that the student was no longer in attendance, it made a scheduled disbursement of aid to the student on the next Monday. A school is not required to immediately return the inadvertent overpayment since a portion of those funds may have been earned and would have to be re-disbursed as a post-withdrawal disbursement. If any of the overpayment has not been earned, it would be returned in accordance with the requirements of this section for the return of unearned funds.

Schools are expected to have the administrative capability to prevent these types of overpayments on a routine basis, particularly if funds are being paid to the student rather than credited to a student's account. A pattern or practice of making these inadvertent overpayments would be questioned in a program review. Inadvertant overpayments are permitted to be included in the calculation of total aid disbursed only for purposes of easing a school's administrative burden in what should be a very limited number of circumstances. This provision would not supercede the requirements that a school may disburse Title IV funds only if the student is enrolled for classes for the payment period and is eligible to receive those funds.

A school may not alter the amounts of Title IV grant and loan funds that were disbursed prior to the school's determination that the student withdrew. For example, a school may not replace a withdrawn student's loan funds with grant funds that the student was otherwise eligible to receive before performing the calculation for the treatment of Title IV funds when a student withdraws.

Title IV Aid that Could Have Been Disbursed

In addition to aid disbursed, aid that could have been disbursed is also used in the calculation. Title IV aid that could have been disbursed is grant or loan funds for which the student meets the conditions for a late disbursement. These conditions are discussed in Chapter 5.

Title IV grant or loan funds that could have been disbursed

Determined in accordance with the late disbursement provisions in §668.164(g).

Note that the amount of Title IV funds that could have been disbursed does not include Title IV funds that the student was not otherwise eligible to receive at the time he or she withdrew. For example, a first-year, first-time borrower who withdraws before the 30th day of his or her program of study would not be eligible to receive any FFEL or Direct Loan funds at the time he or she withdrew (unless the school is exempt from the "30-day delay" provisions in section 428G of the HEA). Therefore, for this student, no amount of an FFEL or Direct Loan may be included in the calculation of the treatment of Title IV Program assistance. If a school is exempt from the 30-day delay provision but chooses to delay the student's FFEL or Direct Loan funds, those funds would count as aid that could have been disbursed.

Title IV funds that could have been disbursed also do not include second or subsequent disbursements of FFEL or Direct loans that are prohibited unless the student has graduated or successfully completed the period of enrollment for which the loan was intended.

Step 2: Percentage of Title IV Aid Earned

The percentage of Title IV aid earned is determined differently for credit hour program withdrawals and clock hour program withdrawals. The requirements for determining a student's withdrawal date, however, differ based on whether a school is required to take attendance or not. The withdrawal date is used to determine the point in time that the student withdrew so the percentage of the payment period or period of enrollment completed by the student can be determined. The percentage of Title IV aid earned is equal to the percentage of the payment period or period of enrollment completed.

If the day the student withdrew occurs on or before the student completed 60 percent of the payment period or period of enrollment, the percentage earned is equal to the percentage of the payment period or period of enrollment that was completed. If the day the student withdrew occurs after the student has completed 60 percent of the payment period or period of enrollment, the percentage earned is 100 percent.

Withdrawal Date

This definition of "withdrawal date" is required for Title IV Program purposes only—including the withdrawal date that a school must report to a lender if FFEL Program funds were received, or to the Department if Direct Loan Program funds were received. A school may, but is not required to use these withdrawal dates for their own institutional refund policies.

Note that the definition of withdrawal date is for purposes of determining the amount of aid a student has earned. Do not confuse it with the "date of the institution's determination that the student withdrew" which is used for other purposes. See page 2-91 for the definition of the date of the institution's determination that the student withdrew.

Withdrawal date for a student who withdraws from a school that is required to take attendance.

If a school is required to take attendance, a student's withdrawal date is the last date of academic attendance as determined by the school from its attendance records. This date is used for all students who cease attendance, including those who do not return from an approved leave of absence, or take an unapproved leave of absence (see the discussion of leaves of absence in Chapter 3 of this volume).

A school may **not** use the date of the institution's determination that the student withdrew as a basis for determining the student's withdrawal date. For example, if a school's records show a student's last date of academic attendance is November 15, but the school is not aware that the student left until November 22, the student's withdrawal date is November 15, not November 22.

Only a school that is required to take attendance by an outside entity (see below) is considered a school that is required to take attendance for purposes of calculating the amount of Title IV Program assistance earned when a student withdraws. A school that elects to take attendance, including a school that voluntarily complies with an optional attendance requirement of an outside entity, is not considered a school that is required to take attendance.

Attendance Requirements of Outside Entities

Examples of outside agencies that may require a school to take attendance are a school's accrediting agency or a school's state licensing agency. If any requirements of an outside entity result in a school having to take attendance, the school would be considered a school that is required to take attendance.

For example, if the state agency requires the school to refund tuition and fees based on the student's last date of class attendance or the state agency regulations require the school to drop a student if the student misses more than a certain number of days or hours in a term, the school would be considered a school that is required to take attendance for purposes of determining a student's withdrawal date.

If a school is required to take attendance for only some students by an outside entity (for example, the Veteran's Administration), the school must use those attendance records for only those students to determine the student's withdrawal date (the last date of academic attendance). The school would not be required to take attendance for any of its other students, or to use attendance records to determine any of its other students' withdrawal dates, unless the school is required to take attendance for those students by another outside entity.

For example, 10 students at Peabody University receive assistance from the State. The State requires the school to take attendance for the recipients of the State's education benefits. Peabody University is not required by any other outside entity to take attendance for any of its other students. Seven of the 10 students who receive State benefits are also Title IV program recipients. If any of those seven students withdraw from the school, the school must use the State required attendance records for those students. For all other Title IV program recipients at Peabody University who withdraw, the school must determine the withdrawal date in accordance with the requirements for students who withdraw from a school that is not required to take attendance.

Documentation

A school must document a student's withdrawal date and maintain that documention as of the date of the institution's determination that the student withdrew. If a school is required to take attendance, it is up to school to ensure that accurate attendance records are kept for purposes of identifying a student's last date of academic attendance. A school must also determine which attendance records most accurately support its determination of a student's withdrawal date and support its use of one date over another if the school has conflicting information.

Determining a student's withdrawal date at a school that is not required to take attendance.

If a school is not required to take attendance, the determination of a withdrawal date varies with the type of withdrawal. The chart on Withdrawal Dates at the end of this chapater lists the withdrawal date for the various types of withdrawals, as well as the date of the institution's determination that the student withdrew for each type of withdrawal.

Official Notification

A student may provide official notification of his or her intent to withdraw by following the school's withdrawal process. In this case, the withdrawal date is the date the student begins the school's withdrawal process. A student may also provide official notification in other ways. If a student otherwise provides official notification (as explained below), the withdrawal date is the date notification was provided. If a student both begins the school's withdrawal process and otherwise provides official notification of his or her intent to withdraw, the earlier of the two withdrawal dates is the withdrawal date, which must be used for purposes of this calculation.

These withdrawal dates apply even if a student begins the school's withdrawal process or otherwise notifies the school of his or her intent to withdraw and projects a future last date of attendance. For example, if on May 5 a student provided notification of his intent to cease attending the school beginning on May 10, the withdrawal date is May 5. **A school that is not required to take attendance may always use a last date of attendance at an academically-related activity as a student's withdrawal date** (this is discussed in detail below). Therefore, the school may use May 10 as the student's withdrawal date if it documents that date as the student's last date of attendance at an academically-related activity.

Likewise, a school could use an earlier last documented date of attendance at an academically-related activity if this date more accurately reflects the student's withdrawal date than the date the student begins the school's withdrawal process or notifies the school of his or her intent to withdraw.

If a student provides notification of his or her intent to withdraw but does not withdraw, no calculation is required. These requirements for the treatment of Title IV funds do not apply to a student who does not actually cease attendance at the school.

School's withdrawal process

Again, for a student who provides official notification of his or her intent to withdraw by following the school's withdrawal process, the withdrawal date is the date the student begins the school's withdrawal process. The beginning of the school's withdrawal process must be defined. This is left up to the school. Schools are required to make available to students a statement of the requirements for officially withdrawing from the school. The school is expected to identify the beginning of its process as a part of this information (for more information, see Chapter 7). A school should be able to demonstrate consistent application of its withdrawal process, including its determination of the beginning of the process.

Otherwise provides official notification

Official notification to the school occurs when a student notifies an office designated by the school of his or her intent to withdraw. In its written description of its withdrawal procedures a school must designate at least one office for this purpose. For example, a school could designate a dean's, registrar, or financial aid office. If a student provides notification to an employee of that office while that person is acting in his or her official capacity, the student has provided official notification. If the student provides notification to an employee of that office while that person is not acting in his or her official capacity (for example, the student runs into her financial aid officer at the grocery store) we would expect the employee to inform the student of the appropriate means for providing official notification of his or her intent to withdraw.

Official notification from the student is any official notification, that is provided in writing or orally. For example, acceptable official notification would include notification by a student via telephone, through a designated web site, or notification provided orally in person. The responsibility for documenting oral notifications is the school's; however, the school may request, but not require, the student to confirm his or her oral notification in writing.

"Intent to withdraw" means that the student indicates he or she has either ceased to attend the school and does not plan to resume academic attendance, or believes at the time he or she provides notification that he or she will cease to attend the school. A student who contacts a school and only requests information on aspects of the withdrawal process, such as the potential consequences of withdrawal, would not be considered a student who is indicating that he or she plans to withdraw. However, if the student indicates that he or she is requesting the information because he or she plans to cease attendance, the student would be considered to have provided official notification of his or her intent to withdraw.

When a student triggers both dates

A student might both begin the school's withdrawal process and otherwise provide official notification to the school of his or her intent to withdraw. For example, on November 1, a student calls the school's designated office and states his or her intent to withdraw. Later, on December 1, the student begins the school's withdrawal process by submitting a withdrawal form. If both dates are triggered, the earlier date, November 1 in this case, is the student's withdrawal date.

Again, remember that a school that is not required to take attendance is always permitted to document a later "last date of academically-related attendance" as the student's withdrawal date.

Official Notification Not Provided by the Student

A student who leaves a school does not always notify the school of his or her withdrawal. There are two categories of these unofficial withdrawals for purposes of this calculation. First, if the school determines that a student did not begin the withdrawal process or otherwise notify the school of the intent to withdraw due to illness, accident, grievous personal loss, or other circumstances beyond the student's control, the withdrawal date is the date the school determines from its consideration of circumstances beyond a student's control. The second category of unofficial withdrawals encompasses all other withdrawals where official notification is not provided to the school. For these withdrawals, commonly knows as "drop-outs," the withdrawal date is the midpoint of the payment period or period of enrollment, as applicable. Once again, this is strictly for schools that are not required to take attendance.

Withdrawal without student notification due to circumstances beyond the student's control

There are two circumstances in which the special rule applies that define a withdrawal date for a student who withdraws due to circumstances beyond the student's control. They apply when: (1) a student who would have provided official notification to the school of his or her intent to withdraw was prevented from doing so due to those circumstances; and (2) a student withdrew due to circumstances beyond the student's control and a second party provided notification of the student's withdrawal on the student's behalf.

A school may determine the withdrawal date that most accurately reflects when the student ceased academic attendance due to the circumstances beyond the student's control. This date would not necessarily have to be the date of the occurrence of the circumstance. For example, if a student is assaulted, he or she may continue to attend school, but ultimately not be able to complete the period because of the trauma experienced. Because the student's withdrawal was the result of the assault, the withdrawal date would be the date the student actually left the school, not the date of the assault. A school should document that the student left at the later date because of issues related to the assault.

All other withdrawals without student notification

For all other withdrawals without notification, the withdrawal date is the midpoint of the payment period or period of enrollment, as applicable.

It is the responsibility of the school to develop a mechanism for determining whether a student who is a recipient of Title IV grant or loan funds has ceased attendance without notification during a payment period or period of enrollment. The requirement that a school identify students who have dropped out during a payment period or period of enrollment is not new. Under the Title IV refund requirements a school was required to identify drop outs. As part of this, **a school should have a mechanism in place for identifying and resolving instances where attendance through the end of the period could not be confirmed for a student.**

Leave of Absence Related Withdrawals

If a student does not return to the school at the expiration of an approved leave of absence, or a student takes an unapproved leave of absence, the student's withdrawal date is the date the student began the leave of absence. Leaves of absence, including the definition of an approved and an unapproved leave of absence, are discussed in detail in Chapter 3 of this volume.

Withdrawals After Rescission of Official Notification

A student may provide official notification to the school of the intent to withdraw, and then change his or her mind. To allow a student to rescind his or her intent to withdraw for purposes of this calculation, the school must obtain a written statement from the student stating his or her intent to remain in academic attendance through the end of the payment period or period of enrollment. If the student subsequently withdraws after rescinding an intent to withdraw, (without returning to school) the withdrawal date is the date the student first provided notification to the school or began the school's withdrawal process, unless the school chooses to document a last date of attendance at an academically-related activity.

As noted previously, a school may always use the last date of attendance at an academically-related activity to take into account attendance by the student subsequent to the student's first notification of withdrawal. For example, Dave notifies his school of his intent to withdraw on January 5. On January 6, Dave notifies the school that he has changed his mind and has decided to continue to attend the school, and provides the required written statement to that effect. On February 15, Dave notifies the school that he is withdrawing, and actually does. The school has a record of an exam that Dave took on February 9. The school may use February 9 as Dave's withdrawal date. If the school could not or did not choose to document a last date of attendance at an academically-related activity for Dave (in this case, the record of the exam), his withdrawal date would be January 5, the date of Dave's original notification of his intent to withdraw, not February 15.

Last Date of Attendance at an Academically-Related Activity

A school that is not required to take attendance may always use a student's last date of attendance at an academically-related activity, as documented by the school, as the student's withdrawal date, in lieu of the withdrawal dates listed above. So, if a student begins the school's withdrawal process or otherwise provides official notification of his or her intent to withdraw and then attends an academically-related activity after that date, the school would have the option of using that last actual attendance date as the student's withdrawal date, provided the school documents the student's attendance at the activity. Similarly, a school could choose to use an earlier date if it believes the last documented date of attendance at an academically-related activity more accurately reflects the student's withdrawal date than the date on which the student began the school's withdrawal process or otherwise provided official notification of his or her intent to withdraw.

The school must document
- **that the activity is academically related, and**
- **the student's attendance at the activity.**

The concept of using a last date of attendance at an academically-related activity as a student's withdrawal date is a longstanding one for the Title IV Programs. Examples of academically-related activities are: an exam, a tutorial, computer-assisted instruction, academic counseling, academic advisement, turning in a class assignment, or attending a study group that is assigned by the school. Examples of activities that are not academically related would be living in institutional housing or participating in the school's meal plan. A school is not required to take class attendance in order to demonstrate academic attendance for this purpose.

Activities that meet this definition of an academically-related activity would not necessarily count as instructional time for purposes of the "12-hour rule" found in the definition of "academic year" and in the definition of an eligible program (see Chapters 1 and 2).

Documentation

A school must document a student's withdrawal date and maintain that documentation as of the date of the institution's determination that the student withdrew. Note that the determination of a student's withdrawal date is the responsibility of the school. Therefore, if a school is using a last date of attendance at an academically-related activity as the withdrawal date, the school, not the student, must document the student's attendance. **A student's certification of attendance that is not supported by school documentation would not be acceptable documentation of the student's last date of attendance at an academically-related activity.**

Leaves of Absence

A leave of absence must meet certain conditions to be counted as a temporary interruption in a student's education, rather than as a withdrawal for the calculation of the treatment of Title IV funds when a student withdraws. If a leave of absence does not meet the conditions, the student is considered to have ceased attendance at the school (and therefore to have withdrawn from the school).

A leave of absence refers to the specific time period during an ongoing program when a student is not in academic attendance. It does not include non-attendance for a scheduled break in a student's program.

Term-based credit hour schools often allow students to receive an "incomplete" status for coursework, that can be, and is expected to be, completed within a reasonable timeframe after the term is over. For example, a student may request and receive an "incomplete" because he or she failed to turn in an assigned paper. If a student is assigned an "incomplete" status but the school determines that the student will likely complete the required coursework, the student could be considered not to have withdrawn. If the school assigns a student a leave status other than a leave of absence just to keep the student from having to re-apply the next semester, the student would be considered to have withdrawn, unless he or she was granted an approved leave of absence under the provisions of this section. As discussed below, a student on an approved leave of absence must be permitted to complete the coursework he or she began prior to the leave of absence.

When a student returns from an approved leave of absence the payment period or period of enrollment used for a return calculation would be adjusted to reflect the new ending date. In order to prevent a situation where a student is able to earn funds simply by taking a leave of absence, those days of the leave of absence must be excluded from the calculation of the percentage of the payment period or period of enrollment completed.

A student who is granted an approved leave of absence is considered to remain in an in-school status for Title IV loan repayment purposes. However, as discussed previously, if a student does not return from an approved leave of absence, the student's withdrawal date, and the beginning of the student's grace period, is:

- for a student who withdraws from a school that is not required to take attendance, the date the student began the leave of absence, or
- for a student who withdraws from a school that is required to take attendance, the last date of academic attendance as determined by the school from its attendance records.

Subsequently, if a student on an approved leave of absence fails to return, a school must report to the loan holder the student's change in enrollment status as of the withdrawal date.

Approved Leaves of Absence

For purposes of this calculation, a school does not have to treat a leave of absence as a withdrawal if it is an approved leave of absence. As noted above, the requirements for not treating a leave of absence as a withdrawal also apply to terminating a student's in-school status for a Title IV loan. A leave of absence is an approved leave of absence if-

- It is the only leave of absence granted to the student in a 12-month period (see exceptions listed below);
- The school has a formal written policy regarding leaves of absence;
- The student followed the school's policy in requesting the leave of absence;
- The school approved the student's request in accordance with the school's policy;
- The school determines that there is a reasonable expectation that the student will return to the school;
- The leave of absence does not involve additional charges by the school;
- The leave of absence does not exceed 180 days in any 12-month period;
- Upon the student's return from the leave of absence, the student is permitted to complete the coursework he or she began prior to the leave of absence; and
- If the student is a Title IV loan recipient, the school explains to the student, prior to granting the leave of absence, the effects that the student's failure to return from a leave of absence may have on the student's loan repayment terms, including the exhaustion of some or all of the student's grace period.

Number of Leaves of Absence in a 12-month Period

Generally, only one leave of absence may be granted to a student in a 12-month period. However, more than one leave of absence may be granted for the limited, well-documented cases due to unforeseen circumstances that are listed below.

Provided that the total number of days of all leaves of absence does not exceed 180 days in any 12-month period, an institution may treat as an approved leave of absence—

- One additional leave of absence if it does not exceed 30 days and the school determines that it is necessary due to unforeseen circumstances. This type of leave of absence would have to be subsequent to the granting of the single leave of absence, which is granted at the school's discretion; and
- Subsequent leaves of absence if the school documents that they are granted for jury duty, military reasons, or circumstances covered under the Family and Medical Leave Act of 1993 (FMLA) (Public Law 103-3), enacted February 5, 1993.

The circumstances that are covered under the FMLA, as applied to students, are:

- birth of a son or daughter of the student and the need to care for that son or daughter (for 12 months beginning from the date of birth of the child),
- placement of a son or daughter with the student for adoption or foster care (for 12 months beginning on the date of the placement),
- need to care for the student's spouse, or a son, daughter, or parent, if the spouse, son, daughter, or parent has a serious health condition, and
- serious health condition that makes the student unable to function as a student.

The definitions of terms taken from the FMLA and its implementing regulations (29 CFR Part 825) are applicable for these criteria. The statutory language, with links to the implementing regulations, can be found on the Internet at http://www.dol.gov/dol/esa/public/regs/statutes/whd/fmla.htm

Two of the circumstances that are covered under the FMLA, birth and care of a child, and adoption or foster care placement, are covered for up to 12 months for purposes of the FMLA. For purposes of the Title IV programs, this means a student may be granted an approved leave of absence for these circumstances, as long as:

- the entire leave of absence will occur during this 12 month period of time, and
- the total number of days of all leaves of absence for the student does not exceed 180 days in the 12-month period that began on the first day of the student's first leave of absence.

For example, a student's child is born on February 1, 2000. The student has never taken an approved leave of absence before. The student may be granted an approved leave of absence for the birth of and/or care of the child for up to 180 days during the period of February 1, 2000 through February 1, 2001, 12 months from the birth date of the child. If the student requests a subsequent leave of absence to care for the child that would begin on January 1, 2001, the leave of absence could be no longer than 31 days, because the circumstance that triggered the leave of absence would no longer be covered under the FMLA after February 1, 2001.

A school may accept one request for multiple leaves of absence from a student when those leaves are all requested for the same reason. For example, a student who will be receiving multiple chemotherapy treatments over the course of the student's enrollment could submit one request to cover the recovery time needed for each session.

Formal Policy

A "formal policy" is one that requires a student to provide a written, signed, and dated request for a leave of absence prior to the leave of absence, unless unforeseen circumstances prevent the student from doing so. For example, if a student was injured in a car accident and needed a few weeks to recover before returning to school, the student would not have been able to request the leave of absence in advance. A school may grant a leave of absence to a student who did not provide the request prior to the leave of absence due to unforeseen circumstances if the school documents its the reason for its decision and collects the request from the student at a later date.

A school must put its leave of absence policy in writing and publicize it to students. This requirement would be met by including the policy with the one-time dissemination of other consumer information (see Chapter 7).

Reasonable Expectation of Return

This condition is specified to make clear that a school may not grant a student a leave of absence merely to delay the return of unearned Title IV funds.

No Additional Charges

A leave of absence is a temporary break in the student's attendance during which, for purposes of determining whether a calculation for the treatment of Title IV funds when a student withdraws applies, the student is considered to be enrolled. Since students are not assessed additional charges for continuing enrollment, any additional charges to a student, even de minimus re-entry charges, indicate that the student is not considered to be on an approved leave of absence.

Does Not Exceed 180 Days in any 12-month Period

The 12-month period would begin on the first day of the student's leave of absence.

Completion of Coursework Upon Return

In order for a leave of absence to be an approved leave of absence, the school must permit the student to complete the coursework that he or she began prior to the leave of absence. Approved leaves of absence are viewed as temporary interruptions in a student's attendance. Therefore, when a student returns from a leave of absence, the student should be continuing his or her education where he or she left off.

Explanation of Consequences of Withdrawal to Loan Recipient

As discussed previously, if a student does not return from an approved leave of absence, the student's withdrawal date is the date the student began the leave of absence. One consequence of this is that some or all of a student's grace period will be exhausted for a Title IV program loan. **Therefore, in order for a leave of**

absence to be an approved leave of absence, a school must inform a student who is a Title IV loan recipient of the possible consequences a withdrawal may have on the student's loan repayment terms, including the exhaustion of some or all of the student's grace period. A student who has exhausted his or her grace period and is unable to begin repayment of a loan may apply for a deferment or forbearance of payment (See The SFA Handbook: Direct Loan and FFEL Program Reference for more information).

Unapproved Leaves of Absence

A school may grant a student a leave of absence that does not meet the conditions for an "approved" leave of absence (for example, for academic reasons). However, any leave of absence that does not meet all of the conditions for an approved leave of absence is considered a withdrawal for Title IV purposes. The student's withdrawal date is the date the student begins the leave of absence.

An unapproved leave of absence may not be treated as an unofficial withdrawal. An unofficial withdrawal is one where the school has not received notice from the student that the student has ceased or will cease attending the school. If a school has granted a student an unapproved leave of absence, the school would be aware of when the student will cease attendance.

Percentage of Payment Period or Period of Enrollment Completed.

Once a student's withdrawal date is determined, a school needs to determine the percentage of the payment period or period of enrollment completed. The percentage of the payment period or period of enrollment completed is equal to the percentage of aid earned by the student. This percentage is determined differently for students who withdraw from credit hour programs and students who withdraw from clock hour programs.

Credit Hour Programs

For a credit hour program, the percentage of the period completed is determined by dividing the number of calendar days completed in the payment period or period of enrollment by the total number of calendar days in the same period, as of the day the student withdrew. The total number of calendar days in a payment period or period of enrollment includes all days within the period, except for scheduled breaks of at least five consecutive days. Days in which the student was on an approved leave of absence would also be excluded. The day the student withdrew is counted as a completed day.

Scheduled breaks

Breaks of five or more consecutive days are excluded in order to provide for more equitable treatment to students who withdraw near each end of a scheduled break. In those instances, the student who withdrew after the break would not be given credit for earning an additional week of funds during the scheduled break, but would instead earn only an additional day or two more funds than a student who withdrew right before the start of the break. All days between the last scheduled day of classes before a scheduled break and the first day classes resume are excluded. For example, where classes end on a Friday and do not resume until Monday following a one-week break, both weekends would be excluded from the return calculation. If classes were taught on either weekend for the programs that were subject to the scheduled break, those days must be counted.

For a program that regularly meets each Saturday and/or Sunday, the days between classes are not excluded because they were not part of any regularly scheduled break. If classes were not held on at least one of the normally scheduled days of a weekend, the period from the last scheduled day of class before the scheduled break until the next scheduled day of class after the break would be excluded from the number of days in the period of enrollment used in the return calculation.

Clock Hour Programs

Under the Title IV refund requirements, schools were allowed to use only clock hours actually completed by the student upon his or her withdrawal. Hours that were scheduled to be completed by the student at the time of withdrawal could not be used. The new law provides that for the determination of the treatment of Title IV funds when a student withdraws, scheduled hours may be used to determine the percentage of the period completed by the student if certain conditions are met.

Calculation 1 on the Clock hour worksheet determines whether the student withdrew after the student has actually completed 60 percent of the payment period or period of enrollment. If the student did withdraw after actually completing at least 60 percent of the payment period or period of enrollment, the student has earned 100 percent of his or her aid so it is not necessary to determine whether scheduled hours may be used. If a student withdrew on or before the 60 percent point, the school should proceed to Calculation 2 to determine if scheduled hours may be used.

Use of Scheduled Hours

If the clock hours completed by the student as of his or her withdrawal are equal to at least 70 percent of the hours that were scheduled to be completed by the student as of his or her withdrawal, scheduled hours are used to determine the percentage. Put another way, students who complete at least 70 percent of their scheduled hours before they withdraw earn Title IV funds based upon their total scheduled hours for the time they were enrolled, rather than the hours the student completed. Calculation 2 first determines the percentage of scheduled hours completed. If this amount is equal to or greater than 70 percent, scheduled hours are used and the school should proceed to the second part of Calculation 2. If the percentage of scheduled hours completed is less than 70 percent, completed hours must be used in the calculation of the percentage of the period completed. Because Calculation 1 determined the percentage of the period completed using completed hours, the result of that calculation is the percentage of the period completed.

For example, if a student withdraws after completing 230 hours in a 450 clock hour payment period, and the student was scheduled to have completed 280 hours of the program at the time he or she withdrew, that student has completed 82 percent of the scheduled hours (230/280) for the time he or she was enrolled. In this case, the student met the attendance threshold of 70 percent and, therefore, the school would use the 280 scheduled hours, rather than the 230 hours that were actually completed, in the calculation of the percentage of the period completed. If the same student had completed 230 clock hours while he or she was scheduled to have completed 335 hours at the point of withdrawal, the student's attendance rate would have been less than 70 percent (230/335=69 percent) and only the 230 completed hours would be used in the calculation.

The second part of Calculation 2, which uses scheduled hours to determine the percentage of the period completed, notes that **using scheduled hours the percentage of the period completed may be greater than 60 percent**. This is because only students who actually complete more than 60 percent of the hours in the payment period or period of enrollment earn 100 percent of the Title IV funds. In the example above, the school determined that the student may be paid for 280 scheduled hours in the 450 clock hour payment period. The percentage of the payment period completed would be 62 percent (280/450), even though the student actually completed only 51 percent of the total hours (230/450). However, the student would not earn 100 percent of the Title IV funds because the 230 clock hours completed were less than 60 percent of the 450 clock hours in the payment period, even though the 280 scheduled clock hours at the time of withdrawal were above the 60 percent point. The student would earn 62 percent of the Title IV funds that were disbursed or that could have been disbursed rather than the 51 percent the student would have earned if completed hours were used in the calculation.

If a student has completed more hours than he or she was scheduled to complete as of his or her withdrawal, completed hours may be used rather than scheduled hours.

Excused Absences

Excused absences do not count as completed hours in the calculation of the treatment of Title IV funds when a student withdraws. For students who withdraw from their programs, the absences must be counted as scheduled hours that were not completed. In order to be paid for those hours, the student must satisfy the 70 percent attendance measure. The allowance of up to 30 percent of the scheduled hours to be missed is sufficient to cover most of the situations for unexpected absences. Remember that a school may grant a student a leave of absence if he or she is unable to attend the school for a period of time, but is planning to return to academic attendance (see the discussion of leaves of absence above). For students who do not withdraw from their programs, the existing policy of not requiring clock hours to be completed for excused absences of up to 10 percent of the program remains.

Step 3: Amount of Title IV Aid Earned by the Student

The amount of Title IV aid earned by the student is determined by multiplying the percentage of Title IV aid earned (box C on the worksheet) by the total of Title IV Program aid disbursed plus the Title IV aid that could have been disbursed to the student, or on the student's behalf (box B on the worksheet).

Step 4: Total Title IV Aid to be Disbursed or Returned

If the student receives less Title IV aid than the amount earned, the school must make a disbursement of the earned aid that was not received. This is called a post-withdrawal disbursement. If the student receives more Title IV aid than the amount earned, the school, or the student, or both, must return the unearned funds in a specified order.

Post-withdrawal Disbursements

If a post-withdrawal disbursement is due, a school stops here on the worksheet. A school may use the Post-Withdrawal Disbursement Tracking Sheet to track the handling of the post-withdrawal disbursement, or it may use a form developed locally. A school must track post-withdrawal disbursements.

The requirements for a post-withdrawal disbursement are similar in many areas to the requirements under Subpart K-Cash Management of the Student Assistance General Provisions regulations. However, in some cases, the post-withdrawal disbursement requirements differ from the cash management requirements.

Any post-withdrawal disbursement due must meet the current required conditions for late disbursements prior to the date the student became ineligible for a school to make a late disbursement. For example, the school must have received the student's Student Aid Report (SAR) or Institutional Student Information record (ISIR) with an official expected family contribution (EFC). These conditions are listed in a chart on Late Disbursements in Chapter 5 of this volume. Post-withdrawal disbursements differ from late disbursements in a couple of ways. While a school has the discretion to determine whether to make a late disbursement to a student who became ineligible solely because of a change in enrollment status, a school is *required* to make post-withdrawal disbursements. A late disbursement must be for incurred educational costs, and must be made within 90 days of the date the student becomes ineligible. The amount of a post-

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withdrawal disbursement is determined by following the requirements for calculating earned Title IV aid, which have no relationship to incurred educational costs. Further, a post-withdrawal disbursement made as the result of a withdrawal must be made within 90 days of the date of the institution's determination that the student withdrew, rather than within 90 days of the date that the student becomes ineligible.

Crediting a Student's Account

The requirements for the treatment of Title IV funds when a student withdraws reflect the cash management requirements for disbursing Title IV funds. Specifically, a school is permitted to credit a student's account with a post-withdrawal disbursement without the student's (or parent's, in the case of a PLUS loan) permission for current charges for tuition, fees, and room and board (if the student contracts with the school) up to the amount of outstanding charges. For other current charges for educationally-related activities, the school would need a student's (or parent's for PLUS loan funds) authorization to credit the student's account. See Chapter 5 for more information.

A school is permitted to use a student's or parent's authorization, which is obtained prior to the student's withdrawal date for this purpose, so long as that authorization meets the cash management requirements for student or parent authorizations. If the school did not obtain authorization prior to the student's withdrawal, the school would have to obtain authorization in accordance with the cash management requirements before the school could credit the student's account for other current charges for educationally-related activities. (See Chapter 5 for more information on student and parent authorizations.) The school's request for the student's or parent's authorization must make clear that if the student or parent does not give permission for the school to credit the student's account with the Title IV funds, these funds will be disbursed directly to the student or parent, as applicable, if the student or parent accepts the funds. If a school does not have permission from the student (or parent for a PLUS loan) prior to the student's withdrawal and does not obtain that permission after the student's withdrawal, the undisbursed earned funds must be offered to the student and cannot be used by the school to pay remaining institutional charges other than for tuition, fees, and room and board (if the student contracts with the school).

Cash Management Requirements for Student and Parent Authorizations

§668.165(b)

See chart on Institutional and Financial Assistance Information for Students at the end of Chapter 7.

A school may credit a student's account for **minor prior award year** charges in accordance with the cash management requirements (see Chapter 5). Schools should make every effort to explain to a student that all or a portion of his or her post-withdrawal disbursement has been used to satisfy any charges from prior award years.

These requirements also mirror the current cash management provisions that require a school to provide notice to a student, or parent in the case of a PLUS loan, when the school credits a student's account with Direct Loan, FFEL or Federal Perkins Loan Program funds.

Notice to a Student Offering a Post-Withdrawal Disbursement

Earned funds in excess of those credited to a student's account must be provided to the student. However, in recognition of the difficulty a school may have in locating a withdrawn student, a school is required to offer in writing to the student (or parent for PLUS loan funds) any amount of a post-withdrawal disbursement that is not credited to a student's account. The written notification must include the information necessary for the student or parent to make an informed decision as to whether the student or parent would like to accept any of the disbursement. This notification would have to be provided for post-withdrawal disbursements of both SFA grant and loan funds that are available for direct disbursement.

A school must send the notification as soon as possible, but no later than 30 calendar days after the date that the school determines the student withdrew. The notice must identify the type and amount of the Title IV funds that make up the post-withdrawal disbursement, and explain that the student or parent may decline all or a portion of those funds. This information must be provided to permit a student or parent to determine which funds, if any, he or she wishes to decline.

In the notification, the school must advise the student or parent that they have 14 calendar days from the date the school sent the notification to accept a post-withdrawal disbursement. The notification must make it clear that if the student or parent does not respond to the notification within the timeframe, the school is not required to make the post-withdrawal disbursement. However, a school may choose to make a post-withdrawal disbursement based on acceptance by a student or parent after the 14 calendar days. If a response is not received from the student or parent within the permitted timeframe, or the student declines the funds, the school would return any earned funds that the school was holding to the Title IV programs.

If a student or parent submits a timely response accepting all or a portion of a post-withdrawal disbursement, the school must disburse the funds within 90 days of the date of the institution's determination that the student withdrew. The definition of the term "date of the institution's determination that the student withdrew" is addressed on page 2-91. Note that the date of the institution's determination that the student withdrew is the same date that triggers the 30-day period that the school has for notifying the student or parent of any post-withdrawal disbursement available for direct disbursement. Consequently, the sooner a school sends the notification to a student or parent, the more time the school has to make any accepted post-withdrawal disbursement.

A school may use one notification to:

(1) inform the student or parent that loan funds were credited to the student's account;
(2) request permission to credit the student's account for other current charges for educationally-related activities, if prior authorization was not obtained; and
(3) notify the student or parent of the availability of any remaining earned Title IV Program assistance.

If authorization from a student (or parent for a PLUS loan) is received after the 14 day timeframe and the school chooses not to make a post-withdrawal disbursement, the school must notify the student (or parent) that the post-withdrawal disbursement will not be made and why. This notification must be made in writing or electronically. It is required because a student or parent may assume incorrectly that his or her acceptance of a post-withdrawal disbursement has been received within the timeframe and that the post-withdrawal disbursement will be made. If an authorization from the student (or parent for a PLUS loan) is never received, or if the school chooses to make a post-withdrawal disbursement on an authorization received after the 14-day time frame, the school does not need to notify the student.

Disburse Grant Before Loan

A post-withdrawal disbursement, whether credited to the student's account or disbursed to the student or parent directly, must be made from available grant funds before available loan funds since it is in the student's best interest to minimize loan debt. "Available" grant or loan funds refers to Title IV Program assistance that could have been disbursed to the student, but was not disbursed as of the date of the institution's determination that the student withdrew. For example, if a student is due a post-withdrawal disbursement of $500, and the student has received $400 of $1,000 in Federal Pell Grant funds that could have been disbursed, and $1,200 of the $2,000 in Federal Stafford Loan funds that could have been disbursed, the available undisbursed funds are $600 in Federal Pell Grant funds, and $800 in Federal Stafford loan funds. Any portion of the $500 post-withdrawal disbursement that the school makes must be from the $600 in available Federal Pell Grant funds.

The regulations do not address how a school should ensure that Title IV funds are disbursed to the proper individual. However, a school may not require a student who has withdrawn from a school (or a parent of such a student, for PLUS loan funds) to pick up a post-withdrawal disbursement in person. Because the student is no longer attending the school, he or she may have moved out of the area and may be unable to return to the school to pick up a post-withdrawal disbursement.

Example of the Post-withdrawal Disbursement Requirements:

Michael drops out of school on November 5. On November 10, the school becomes aware that Michael ceased attendance. The school determines that because Michael has earned $900 in Title IV Program assistance that he has not received, he is due a post-withdrawal disbursement of $900. When Michael withdrew, only $600 of the $1,000 in Federal Pell Grant funds that could have been disbursed had been disbursed. Of the $2,000 in Federal Stafford Loan funds that could have been disbursed, only $1,200 had been disbursed. The school determines that Michael has $50 in outstanding tuition charges and $100 in outstanding parking fines for the payment period. The school credits Michael's account with $50 of Michael's Federal Pell Grant funds. The school wants to use another $100 of his post-withdrawal disbursement to cover the outstanding parking fines. However, the school has not received permission from Michael prior to his withdrawal to credit his account for educationally-related charges other than tuition and fees and room and board.

On November 12, the school sends a notification to Michael which states that:

(1) he is due a post-withdrawal disbursement of $900 that comprises $400 in Federal Pell Grant funds and $500 in Federal Stafford Loan funds;

(2) $50 of the Federal Pell Grant funds were credited to his account for tuition charges, so Michael has a remaining potential post-withdrawal disbursement of $850;

(3) Michael may accept all, a portion, or none of the $850;

(4) The school is obligated to make a post-withdrawal disbursement of funds only if Michael accepts the funds by November 26, 14 days after the school sent the notification;

(5) The school is requesting his permission to credit his account with an additional $100 of the Federal Pell Grant funds to cover his unpaid parking fines; and

(6) If Michael does not authorize the school to credit his account with the $100 of Federal Pell Grant funds, those funds will be disbursed to him if he chooses to accept them. The school could have sent the notification no later than December 10th; that is, 30 days after the date of the institution's determination that the student withdrew.

Michael responds on November 19. He authorizes the school to apply $100 of the Federal Pell Grant funds to his outstanding parking fines. Michael accepts the remaining $250 in Federal Pell Grant funds, but declines the $500 in Federal Stafford Loan funds to minimize his overall loan debt.

The school sends Michael a check for the $250 in Federal Pell Grant funds and a letter confirming that $100 of the Federal Pell Grant funds will be credited to his account and no additional loan funds will be disbursed. The school has until February 8, which is 90 days from the date of the institution's determination that the student withdrew, to disburse the $250 in Federal Pell Grant funds to Michael and to credit his account with the $100 of Federal Pell Grant funds to cover his outstanding parking fines.

Title IV Aid to be Returned

If the student receives more Title IV aid than the amount earned, the school, or the student, or both, must return the unearned funds in a specified order. The amount of Title IV aid to be returned is determined by subtracting the amount of earned Title IV aid (box D) from the amount of Title IV aid that was actually disbursed to the student, NOT including aid that could have been disbursed (box A).

The amount of aid that was actually disbursed, rather than the total amount of aid that was disbursed and that could have been disbursed, is used because the only amount of Title IV aid that needs to be returned is the amount of disbursed aid that exceeds the amount of earned aid.

Step 5: Amount of Unearned Title IV Aid Due from the School

When a return of Title IV funds is due, the school and the student both have a responsibility for returning funds. Whatever funds are not returned by the school, must be returned by the student. Although these requirements talk in terms of returning funds, a school is not required to actually return its share before the student; rather, the amount of assistance that the school is responsible for returning must be allocated between the Title IV accounts first. The student's repayment obligation is determined after the school's share is calculated.

The school must return the lesser of

- The amount of Title IV funds that the student does not earn; or
- The amount of institutional charges that the student incurred for the payment period or period of enrollment multiplied by the percentage of funds that was not earned.

The percentage not earned is determined by subtracting the percentage of Title IV aid earned (box C) from 100 percent.

Institutional Charges

On January 7, 1999, the Secretary published guidance on the definition of institutional charges for the purpose of refund calculations. This guidance was published in the form of a policy bulletin on the Education Department's Information for Financial Aid Professionals (IFAP) web site. The guidance was initially developed to address requests for clarification of the definition of institutional charges as used in the pre-1998 Amendments refund requirements.

Under the pre-1998 Amendments requirements, refund provisions are used to determine the portion of institutional charges that a school must return when a student withdraws. In the requirements of the 1998 Amendments, institutional charges are used only to determine the portion of unearned Title IV aid that the school is responsible for returning. Institutional charges do not affect the amount of Title IV aid that a student earns when he or she withdraws.

Because the impact of institutional charges is different under the new law, the Department has agreed to revisit the current guidance to determine whether revisions would be appropriate. Until further guidance is issued, the guidance of the January 7, 1999, policy bulletin remains in effect.

Use of Institutional Charges in Determining the School's Responsibility for Return

"Institutional charges incurred by the student" are charges for which the student is responsible and were initially assessed by the school for the payment period or period of enrollment. These charges may not be reduced, even if other sources of aid were actually used to pay a student's institutional charges. Unless the school processed a change in enrollment status for a student prior to his or her withdrawal and made attendant changes in the amount of institutional charges at that point, the school would be required to use the charges that were initially assessed the student in the return calculation. The amount of a student's institutional charges may not be based upon the student's enrollment status at the time of withdrawal, or reduced to reflect whatever adjusted institutional charges were assessed by the school after the student withdrew under the school's refund policy or otherwise. In other words, the calculation for the Return of Title IV Funds must be applied before any institutional adjustments are made.

As stated in the discussion previously, for students who withdraw from a non-term based educational program, the school has the choice of determining the calculation on either a payment period basis or a period of enrollment basis. If a school with a non-term program chooses to base the calculation on a payment period, but the school charges for a period longer than the payment period (most likely the period of enrollment) there may not be a specific amount that reflects the actual institutional charges incurred by the student for the payment period. In this situation, the student's institutional charges for the payment period is the pro-rated amount of institutional charges for the longer period. However, if a school has retained Title IV funds in excess of the institutional charges pro-rated amount, including allocating costs for equipment and supplies to the front of the program, the funds retained by the school are attributed to that payment period because they are a better measure of the student's institutional charges for that period. Because Federal Work-Study funds are not included in the calculation of earned Title IV funds when a student withdraws, Federal Work-Study funds that are credited to a student's account would not be included as Title IV program assistance retained for institutional charges.

For example, institutional charges are $8,000 for a non-term based program that spans two payment periods of 450 clock hours each. The school chooses to calculate the treatment of Title IV funds on a payment period basis. A student withdraws in the first payment period. The pro-rated amount of institutional charges for each payment period is $4,000. However, the school has retained $5,000 of the Title IV funds for institutional charges for the payment period. Therefore, the institutional charges for the payment period are $5,000.

Note: The following guidance was written specifically for the Refund and Repayment calculations that were required prior to the 1998 amendments. The Department plans to update this guidance at a later date to reflect the new Return of Title IV regulations.

January 7, 1999 Policy Bulletin

Institutional versus Non-Institutional charges

Tuition, fees, room and board, and "other charges" have been collectively and historically referred to as "institutional charges." Institutional and noninstitutional expenses are not defined by whether an actual charge has been made to a student's institutional account. As a general rule, institutional charges are defined as expenses that a school assesses a student for educational expenses and are paid to the school directly.

Principle 1: Most costs are institutional

The most important principle to keep in mind is that all tuition, fees, room and board, and other charges a school assesses a student are institutional charges, unless demonstrated otherwise. Thus, a school is never compelled to classify a charge as noninstitutional if it wishes to classify the charge as institutional. However, if a school wishes to exclude specific charges or costs from a calculation, it must demonstrate that the charges are noninstitutional charges. Noninstitutional costs are discussed under "General Guidelines for Defining Institutional charges."

Principle 2: An institutional charge does not need to be assessed to all students

Schools sometimes mistakenly assume that a charge is not a institutional charge because it was not assessed to all students, or the charge was not included in the enrollment agreement. For example, general guidance provides that "other charges assessed the student by the school include, but are not limited to" all items issued by the school to the student when those charges are specified in the enrollment agreement as separate charges. However, it should be noted that other charges are not limited to items that are listed in the enrollment agreement. While a charge must be assessed to all students carrying the same academic workload to be considered an allowable cost of attendance, and Title IV funds may only be used to pay allowable cost of attendance charges, it is not true that a charge must be assessed to all students, or be listed in an enrollment agreement, to be considered a institutional charge for purposes of this calculation.

Principle 3: Institutional charges May or May Not Be Charged to a Student's Account

Note the following points about institutional charges:

1. All charges to a student's account are not necessarily institutional charges.

With the student's permission, a school may credit a student's account with Title IV funds to pay for noninstitutional charges. Consequently, if a student withdraws from the school with charges for noninstitutional charges on his or her account, the school must use those charges to determine if the student owes a repayment. Specific charges that may be classified as noninstitutional charges are defined in the discussion on "General Guidelines for Defining Institutional Charges."

2. Charges that do not appear on the student's institutional account may still be institutional charges.

For example, a student does not have to charge the purchase of required course materials to his or her institutional account for the course materials to be classified as "institutional charges." If a school disburses funds to a student to buy equipment that he or she is required to have by the first day of class, but the disbursement is so late that the student only has time to purchase the equipment at the school, those costs must be **classified as institutional charges because the student does not have "a real and reasonable opportunity" to purchase the equipment from someplace other than the school**.

General Guidelines for Defining Institutional Charges

The following educational expenses must be considered institutional charges:

- All charges for tuition, fees, and room and board (if contracted with the school); and
- Expenses for required course materials, if the student does not have a "real and reasonable opportunity" to purchase the required course materials from any place but the school.

Exceptions: "Excludable" costs are defined as costs that a school may exclude from the total amount of institutional costs, such as an administrative fee, documented cost of unreturnable equipment and the documented cost of returnable equipment if not returned in good condition within 20 days of withdrawal.

Noninstitutional charges include:

- A charge for any required course materials that a school can document are noninstitutional because the student had "a real and reasonable opportunity" to purchase them elsewhere (See the discussion that follows.);
- A charge to the student's account for room charges that are collected by the school but are "passed through" to an unaffiliated entity;
- A charge to student's account for group health insurance fees, if the insurance is required for all students and the coverage remains in effect for the entire period for which the student was charged, despite the student's withdrawal; or
- A charge to a student's account for discretionary educationally related expenses (e.g., parking or library fines, the cost of athletic or concert tickets, etc.).

Demonstrating "Real and Reasonable Opportunity"

A school may treat certain charges as noninstitutional charges when the school can show that its students have the option of obtaining required course materials from the school or receiving payment of the funds from the school to purchase the items from alternative sources.

If a school does not have a separate charge for equipment and the student has the option of purchasing the equipment from more than one source, the school would not have to include the equipment charge in the return of funds calculation.

With regard to this exception, note that if a school wishes to classify the cost of required books, supplies, and equipment as noninstitutional charges, **it must be able to substantiate that an option actually existed for its students**. For example, the school must be able to demonstrate that: 1) the required course materials were available for purchase at a relatively convenient location unaffiliated with the school; and 2) the school did not restrict the availability of financial aid funds, so its students could exercise the option to purchase the required course materials from alternative sources.

A school would not be able to demonstrate that a student had a real and reasonable opportunity to purchase his or her required course materials from alternative sources if one of the following is true:

- The required course materials are not available elsewhere (i.e., they were only available at the school), or they are not conveniently available for purchase from another vendor unaffiliated with the school;

- When financial aid is available to the school for disbursement to the student, the school does not make those funds available to the student in time to purchase the required materials from another vendor before those materials are required for academic purposes;

- The school's practices do not allow or actually discourage a student (e.g., the use of vouchers that are only good at the campus bookstore or the late disbursement of funds to students to pay for noninstitutional charges) from exercising his or her option to purchase the required course materials from another vendor; or

- The school has the student sign a statement stating that the student has the option to purchase course materials from someplace other than the school, but the school is unable to document that an option truly existed.

If the school's return policies are reasonable, consistent, and, and fair to all students, and students were notified, in writing, of the school's policies when they enrolled, the school may exclude documented costs for

- nonreturnable equipment; and

- returnable equipment, if not returned in good condition within 20 days of withdrawal.

NEW

Note: The $100 or 5% fee (whichever is less) that was excludable under the former Refund and Repayment regulations is not excluded in the Return of Title IV Funds calculation.

The school is responsible for demonstrating that its policy on nonreturnable equipment is reasonable, consistent, and fair to students. For example, it is not reasonable or fair to students to classify all used books or equipment as nonreturnable. A school must be able to demonstrate that there are specific circumstances that would prevent the school from selling the books or equipment to other students, Also, if the school's students are not notified in writing about the school's return policy when they enroll or the policy is not consistent with federal regulations on excludable costs, the school may not exclude the documented cost of books, supplies, and equipment from any refund calculations.

Applying the Rules: Is this an Institutional Charge?

To see how the guidelines for defining institutional charges can be applied, consider how a school would determine whether a charge for tools is noninstitutional or institutional. A student is required to purchase certain types of high quality tools for his program of study by the first day of class. The school's enrollment agreement does not contain a charge for the tools, and it does not say that the student is required to purchase the tools from the school or a vendor affiliated with the school. The required tools are available for purchase from the school and from a retailer across the street from the school. As a routine practice, the school obtains permission to credit all financial aid to students' institutional accounts, and establishes a line of credit for students at the campus bookstore so they can purchase the required tools by the first day of class. All students buy the tools at the campus bookstore and charge the purchase to their institutional accounts.

The first step would be to determine if the purchase of the tools falls under the category of expenses that are generally considered institutional charges. Although the cost of the tools is not listed as a charge in the student's enrollment agreement, the school requires the student to purchase the tools for his program of study. Therefore, as a general rule, the tool charges will be considered institutional charges. However under the exceptions rule, the tool charges may be considered noninstitutional if the school can document that its students had a "real and reasonable opportunity" to purchase the tools from someplace other than the school. The real and reasonable test is whether the school could demonstrate the following: 1) the tools were available for purchase elsewhere; 2) the school made financial aid available to students in time to purchase the tools from another vendor before the first day of class; and 3) the school's practices provide students with an equal opportunity to purchase the tools from the campus bookstore or the retailer across the street.

In this case, the school meets the first criterion: the tools are available at the store across the street, so an opportunity could exist. However, the school fails to satisfy the second and third criteria because the school's routine practice of crediting students' accounts with all financial aid, and extending lines of credit for purchases at the campus bookstore, does not allow its students the option of purchasing the required tools from the retailer across the street. Therefore, the only choice this school's students have is to purchase the tools at the campus bookstore. As a result, the cost of the tools must be classified as institutional charges.

Summary

The following summarizes the key points for determining institutional and noninstitutional charges:

1. Institutional charges are defined as charges that a school assesses a student for educational expenses, which must be paid to the school directly.

2. A school either disburses financial aid to the student directly to pay for noninstitutional charges, or the school may, with the student's permission, credit the student's account to pay for noninstitutional charges.

3. All tuition, fees, room and board, and other charges a school assesses a student are institutional charges, unless demonstrated otherwise.

4. If a school wishes to exclude specific charges from institutional charges, it must demonstrate that the charges are either noninstitutional costs or are excludable costs.

5. A institutional charge does not have to be charged to all students or be listed as a charge in an enrollment agreement to be classified as a institutional charge.

6. All charges to a student's account are not necessarily institutional charges.

7. If a charge does not appear on the student's institutional account, it may still be a institutional charge.

8. Tuition, fees, room and board (if contracted with the school) are always institutional charges.

9. Expenses for required course materials are institutional charges, if the student does not have a real and reasonable opportunity to purchase the required course materials from any place but the school he or she is attending.

10. For a school to classify the cost of required course materials as noninstitutional charges, it must be able to substantiate that: 1) the required course materials were available for purchase at a relatively convenient location unaffiliated with the school; and 2) the school made financial aid funds available to students in a timely manner, so its students could exercise the option to purchase the required course materials from alternative sources.

11. "Excludable" costs are costs a school may exclude from total institutional charges, such as an administrative fee, documented cost of unreturnable equipment and the documented cost of returnable equipment if not returned in good condition within 20 days of withdrawal.

12. Noninstitutional charges include: charges for any required course materials that a school can document are noninstitutional because the student had "a real and reasonable opportunity" to purchase them elsewhere; a charge to the student's account for room charges that are collected by the school but are "passed through" to an unaffiliated entity; a charge to a student's account for group health insurance fees, (if the insurance is required for all students and the coverage remains in effect for the entire period for which the student was charged, despite the student's withdrawal); and a charge to a student's account for discretionary educationally related expenses (e.g., parking or library fines, the cost of athletic or concert tickets, etc.).

Step 6: Return of Funds by the School

Order of Return of Title IV Funds

A school must return Title IV funds to the programs from which the student received aid in the following order, up to the net amount disbursed from each source:

- Unsubsidized Federal Stafford loans.
- Subsidized Federal Stafford loans.
- Unsubsidized Direct Stafford loans (other than PLUS loans).
- Subsidized Direct Stafford loans.
- Perkins loans.
- Federal PLUS loans.
- Direct PLUS loans.
- Federal Pell Grants for the payment period for which a return of funds is required.
- Federal Supplemental Educational Opportunity Grants (FSEOG) for the payment period for which a return of funds is required.
- Other assistance under this Title for which a return of funds is required (e.g..LEAP).

Timeframe for the Return of Title IV funds.

A school has 30 days from the date the institution determines that the student withdrew to return all unearned funds for which it is responsible.

Timeframe for the Determination of a Withdrawal Date for an Unofficial Withdrawal

Some schools may not know that a student has dropped out (unofficially withdrawn) until the school checks its records at the end of an academic period. However, to ensure that Title IV funds are returned within a reasonable period of time, a school must determine the withdrawal date (for a student who withdrew without providing notification) within 30 calendar days from the earlier of (1) the end of the payment period or period of enrollment, as applicable, (2) the end of the academic year, or (3) the end of the student's educational program.

Step 7: Initial Amount of Unearned Title IV Aid Due from the Student

The statute specifies that a student is responsible for all unearned Title IV Program assistance that the school is not required to return. The initial amount of unearned Title IV aid due from the student (or parent, for PLUS loan funds) is determined by subtracting the amount returned by the school from the total amount of unearned Title IV funds to be returned. This is called the "initial" amount due from the student because a student will not have to return the full amount of any grant repayment due; therefore, the student may not have to return the full initial amount due.

Step 8: Return of Funds by the Student

The student is obligated to return funds to the Title IV fund from which it was received and in the same order that is required for schools. The student returns the net amount disbursed from each source after subtracting the amount the school must return to that source. A student is not required to return 50 percent of the grant assistance he or she received, which it is the responsibility of the student to repay.

The student (or parent, if a Federal PLUS loan) returns funds to the loan programs in accordance with the terms of the loan, and to grant programs as an overpayment. In other words, the student will be repaying any unearned loan funds in the same manner that he or she will be repaying earned loan funds. Grant overpayments are subject to repayment arrangements satisfactory to the school, or overpayment collection procedures prescribed by the Secretary.

GRANT OVERPAYMENTS

The applicable regulations require that students repay only 50 percent of any Title IV grant overpayments. The overpayments are reduced by half of the initial repayment amount, not by half of the total grants students received.

Repayment terms for students who owe Title IV grant overpayments were established to ensure that students who could not immediately repay their debt in full had the opportunity to continue their eligibility for Title IV funds. Students who owe overpayments as a result of withdrawals generally will retain their eligibility for Title IV funds for a maximum of 45 days from the earlier of

- the date the school sends the student notice of the overpayment; or

- the date the school was required to notify the student of the overpayment.

Within 30 days of determining that a student who withdrew owes a repayment of a Title IV grant, a school is required to notify the student that he or she must repay the overpayment. In its notification a school must inform the student that

1. The student owes an overpayment of Title IV funds.

2. The student's eligibility for additional Title IV funds will end if the student fails to take positive action (by the 45th day following the date the school sent or was required to send notification to the student).

3. There are three positive actions a student can take to extend the student's eligibility for Title IV funds:

    a. The student may repay the overpayment in full to the school.
    b. The student may sign a repayment agreement with the school.
    c. The student may sign a repayment agreement with the Department.

4. If the student fails to take one of the positive actions during the 45-day period, the student's overpayment will be reported to the Department and referred to the Department for collection.

5. The student should contact the school to discuss his or her options.

Examples of the Relationship Between Date of Notification and Expiration of the 45-Day Period

Example 1 - A school sends notification to a student within the 30 days allowed.

If a school sends notification to a student within the 30 days allowed, the 45-day period begins on the day after the school sends the notification to the student. If a school determines on August 20th that a student withdrew and owes a repayment and the school sends notification to the student on September 1st, (within the 30 days allowed), then the first day of the 45-day period is September 2nd. The 45th day and last day of the student's eligibility for Title IV funds is October 16th.

Example 2 - A school fails to notify the student or notifies the student after the 30 days allowed.

If the school fails to notify the student or notifies the student after the 30 days allowed, the 45-day period begins on the day after the end of the 30-day period (the date by which the school should have sent the notification to the student.). If a school determines on August 20th that a student who withdrew on July 8th owes a repayment, the 30th day following August 20th and the first day of the 45-day period is September 19th. The 45th day and last day of the student's eligibility for Title IV funds is November 3rd. If a student agrees to a repayment arrangement and then fails to meet the terms of that arrangement, the student's eligibility could end before the expiration of the 45-day period.

Note: The Return of Title IV Funds software will identify an ending date for the 45-day period that is one day earlier than the date a financial aid administrator would arrive at if the aid administrator performed the calculations by hand.

Referring overpayments for collections is a separate process from reporting overpayments to NSLDS. ***Reporting*** *is the process of creating within NSLDS a record of a student's overpayment.* ***Referring*** *is the process of turning over a student's debt to Student Credit Management Collections (ED Collections).*

A school is never required to enter into a repayment agreement with a student, rather a school may refer an overpayment to the Department at any time **after** the student has had the opportunity to pay off the overpayment in full to the school. However, if a school reports a student overpayment to NSLDS before the 45-day period has elapsed the student will appear to be ineligible for Title IV aid. Subsequently, schools should provide students with every opportunity to repay their debt before reporting it to NSLDS and referring it to Student Credit Management Collections (ED Collections).

Students who pay their debts in full during the 45-day period should neither be reported to NSLDS nor referred for collection.

Important: ED Collections is unable to respond to a student-initiated request to negotiate a repayment arrangement until a school has referred the student's account for collection. In addition, ED Collections uses the information about the student in the NSLDS while conversing with a student. Therefore, when communicating with a student a school should make it clear that the student should contact the school before contacting the Department.

If a student makes a payment on a Pell grant overpayment, or an FSEOG overpayment made in the current award year the school should handle the funds in accordance with the "excess cash" regulations and GAPS procedures.

If the school collects an overpayment of an FSEOG for an award made in a prior award year, the funds recovered should be returned to the Department using GAPS procedures. Payments should be applied to the award year in which the recovered funds were awarded.

Accepting Payments from Students

If a school receives a payment for an overpayment that has not been referred to Student Credit Management Collections, the school should **NOT** send the payment to ED Collections.

If through its Return of Title IV Funds calculations a school determines that a student has received an overpayment of Pell funds, the school should reduce the student's award (by entering a negative disbursement) through the RFMS system for the amount the school is required to return and adjust its institutional ledgers and the student's account.

If through its Return of Title IV Funds calculations a school determines that a student has received an overpayment of FSEOG funds, the school should appropriately adjust its institutional ledgers, financial aid records and the student's account. In addition, the FISAP filed for the year will reflect the net award to the student.

A school reports overpayments in the NSLDS on-line. A school sends referrals to ED Collections through the U.S. Mail. If a student who owes a repayment of a Title IV grant calls ED Collections before ED Collections has received and recorded the student's overpayment, ED Collections will examine the student's record in the NSLDS. If a school has reported the overpayment to NSLDS correctly, ED Collections will inform the student that the overpayment is being processed and that the student should call back in ten days for further information. If a student calls ED Collections before a school has reported the student's overpayment to the NSLDS, ED Collections will find no record of the overpayment and

Repayment Arrangements

Repayment agreements with the Department will include terms, that permit students to repay overpayments while maintaining their eligibility for Title IV funds. Schools are encouraged to negotiate similar repayment agreements with students. However, schools' repayment arrangements with students must provide for complete repayment of the overpayments within two years of the date of the institutions' determination that the students withdrew.

If during the 45-day period a student indicates that he or she cannot repay his or her debt in full and wishes to negotiate a repayment agreement with the Department, the school should immediately report the overpayment to NSLDS **and** refer the overpayment to ED Collections. Likewise, if a student who cannot repay his or her debt in full contacts a school that will not be offering institutional repayment agreements to students, the school should immediately report the overpayment to the NSLDS **and** refer the overpayment to ED Collections. (So that ED Collections will have time to receive and record an overpayment before a student contacts ED Collections, a school should tell a student to wait ten days before contacting ED Collections.)

After a school has reported and referred a student's overpayment, the school should provide the student with the phone number, E-mail, and postal address for ED Collections. A student can contact ED Collections by calling 1-800-621-3115 or by sending an E-mail to DCS_HELP@ed.gov. A student may also write ED Collections at the following address:

U.S. Department of Education
Student Financial Assistance Programs
P.O. Box 4222
Iowa City, Iowa 52245

Reporting and Referring Overpayments

If a student does not take positive action during the 45-day period, the student becomes ineligible for Title IV funds on the 46th day from the earlier of - the date the school sends a notification to the student of the overpayment; or the date the school was required to notify the student of the overpayment. The student will remain ineligible until the student enters into a satisfactory repayment agreement with the Department. An overpayment resulting from a student's withdrawal remains an overpayment until it is repaid in full. Though a student may regain Title IV eligibility by negotiating and satisfying the requirements of a satisfactory payment arrangement, the information on the student's NSLDS account will continue to reflect the status of the overpayment until the debt is repaid in full.

If a school enters into a repayment arrangement with a student who owes an overpayment, the school should immediately report the repayment arrangement using the on-line NSLDS screens. The school should report the status of an overpayment for which it has entered a repayment agreement as "S." After the information is reported to the NSLDS, any future output from the CPS (SARs and ISIRs) will show that the student owes a repayment of a Title IV grant and that the student has negotiated a satisfactory repayment arrangement with the school.

As long as the student lives up to his or her repayment arrangement, the NSLDS overpayment status of "S" will indicate that, though the student owes an overpayment, the student remain eligible for Title IV funds. If at any time a student fails to comply with the terms of the student's agreement to repay, immediately the school must update the student's overpayment status to "Y." From that point on the NSLDS will inform schools that the student is not eligible for Title IV funds.

will tell the student to contact the school to resolve the discrepancy.

Initially, schools should report through RFMS (by entering a negative disbursement) only the Amount of Unearned Title IV Aid due from the school. Subsequently, schools that have made repayment arrangements with students should report in RFMS (by entering a negative disbursement) any payments made by a student.

Dear Colleague Letter GEN-98-14, July 1998 and The NSLDS Training Guide.

A school must refer to the Department

1. a student who does not satisfy the requirements of his or her repayment agreement with the school;
2. a student who fails to contact the school during the 45-day period; and
3. a student who fails, during the 45-day period, to pay his or her overpayment in full or enter into a repayment arrangement.

Dear Colleague Letter GEN-98-14, July 1998 and The NSLDS Training Guide.

If a school is referring to ED Collections a student overpayment previously reported to NSLDS, the school must also update the information previously reported to NSLDS by changing the source field from *SCH* to *TRF*. If a school is referring a student who has failed to satisfy the terms of their repayment agreement, the school should change the status code from "S" to "Y." If a school is referring for collection a student not previously reported to NSLDS, the school must report the account to NSLDS as a referred overpayment and enter *TRF* as the initial source and "Y" as the status.

To refer student overpayments for collection, schools should use a format similar to the one found at the end of this chapter and send the form to the address at the bottom of the page. Each referral must be typed or printed and must be submitted on school letterhead. **In order to avoid creating a double record for a single overpayment, the school must populate Part 3, item 3 of its Overpayment Referral Form, *Dates of Disbursements*, with the exact same dates the school used when it created the NSLDS record.** Once ED Collections has accepted a referred student overpayment, ED Collections will transmit the information to NSLDS and "DCS" will replace "SCH" as the appropriate contact for information about the overpayment.

Accepting payments on referred overpayments

A school may continue to accept payment on an overpayment after the overpayment has been referred to the Department. If a school accepts a check from a student made out to the Department the school must

- note the student's name and SSN on the check;
- indicate that the payment is for an overpayment of a Title IV grant; and
- forward the payment to ED Collections at

U.S. Department of Education
National Payment Center
P.O. Box 4169
Greenville, Texas 75403-4169

If a school accepts a cash payment from one or more students who owe overpayments, the school should write its own check to the Department and attach a letter indicating that the check is for a Title IV Grant overpayment(s). The school must include in its letter a roster that includes for each student who made a payment, the student's name, social security number, and amount paid.

Case Studies

CASE STUDY 1: PENNY JONES

Calculating the return of Title IV funds for a student attending a two-year community college (semester) and receiving grants (partially disbursed)

Learning Objectives

Learn to complete Steps 1 – 4 of the worksheet *Treatment of Title IV Funds When a Student Withdraws from a Credit Hour Program*, and:

- Be able to identify the basic information needed to complete the worksheet, including the withdrawal date and date of the institution's determination that the student withdrew
- Be able to calculate the percentage of the period the student completed
- Be able to calculate both the percentage and the amount of Title IV aid earned by the student
- Be able to determine either that the student is due a post-withdrawal disbursement (PWD) of Title IV aid or that Title IV aid must be returned
- Be able to determine the amount of the PWD or return as well as the additional steps required

SCHOOL PROFILE

Everyone Should Have an Education Community College is a two-year, public, residential, credit hour institution

Academic Year/Program	2 semesters 32 weeks
Period	16 weeks 110 calendar days
Period Start Date	August 23
5 Consecutive Day Break	No (no Sat. – Sun. classes)
Required to Take Attendance	No
Method for Matching FSEOG	Fund specific

STUDENT PROFILE

Penny Jones is a first-year student who was home-schooled in Virginia. Charges to her account for the first semester are as follows:

Tuition and fees	$	1,000.00/16 week semester
Room and Board	$	2,250.00/16 week semester
Books and Supplies	$	400.00/16 week semester
Health Insurance	$	250.00/academic year

Balances remaining on Penny's account include:

Health Insurance	$	250.00
Books & Supplies	$	400.00
Room & Board	$	1,250.00

School Authorized to Credit Account for Other Charges:	Yes (all charges)

Penny's financial aid package included the following annual awards:

Pell Grant	$	3,125.00
FSEOG	$	1,500.00
State Grants	$	1,000.00
Institutional Awards	$	1,500.00

Discussion

On the first day of the fall semester, August 23, Penny received the following disbursements to her student account:

Pell Grant	$ 0.00
FSEOG	$ 750.00
State Grants (not funded by LEAP)	$ 500.00
Institutional Awards	$ 750.00

Although Penny is grateful for the assistance, she is concerned about how her total costs for the fifteen credit hours she is taking this semester and her room and board are going to be covered:

Tuition and Fees	$1,000.00
Room and Board	$2,250.00
Health Insurance	$ 250.00
Books voucher good only at ESHECC campus bookstore	$ 400.00

On October 8, Penny came by your office to advise that she doesn't think she is doing very well and is considering dropping out prior to November 1, the last day to withdraw from classes without academic penalty. To help her make a decision, she requests information on the withdrawal process. You are fairly certain that Penny is having a hard time adjusting to college life and want to encourage her to hang in until the end of the semester, December 10. However, because you are in the midst of trying to resolve your problems reporting Pell origination records (so that you then can make Pell disbursements, including Penny's $1,562.50 disbursement), you don't have time at the moment to talk to her. You ask her to set an appointment to see you the following week, on October 13.

When Penny comes to see you on October 13, she confesses that the last class she attended was on September 30. Because she doesn't see how she can get caught up on the work she's missed, she is adamant about withdrawing. So, you give her instructions on completing the college's official withdrawal process and advise her where she can get the appropriate form. Finally, you remind her that the school's policy is that the date of withdrawal is the date the student turns in the signed form (which she did on October 15).

Let's review some basic information about Penny as well as our learning objectives for this case. Penny attended a two-year community college, which was on the semester system. Students earned academic credits based on credit hours taken. Before withdrawing, Penny received her FSEOG disbursement, but not her Pell Grant.

The first thing we'll need to do is to decide on the date of the school's determination that Penny withdrew. Then, we'll complete Step 1: Student's Title IV Aid Information, which includes:

- Title IV aid disbursed
- Title IV aid disbursed plus Title IV aid that could have been disbursed

Solution

The date of the institution's determination is the date you were advised by Penny that she had decided to withdraw. On the earlier date, October 8, she was only thinking about withdrawing. Date of the institution's determination that the student withdrew = October 13.

Step 1: Student's Title IV Aid Information

A. Although Penny also received disbursements of state and institutional aid, only Title IV aid is considered in the return of funds calculation. Also, because Penny's school uses the fund-specific method (depositing the institutional match into the school's FSEOG account), the non-federal share is used in the calculation.Title IV aid disbursed = $750.00.

FSEOG	$750.00

B. Because of your problems reporting Pell origination records, Penny's Pell Grant had not been disbursed yet. But, she was eligible for the disbursement, so the amount of the Pell Grant that could have been disbursed is included in the total. Total Title IV aid disbursed plus Title IV aid that could have been disbursed = $2,312.50.

SEOG	$ 750.00
Pell Grant	$1,562.50

Step 2: Percentage of Title IV Aid Earned

1. Withdrawal date = October 13

Note: Since ESHECC is not required by an outside entity to take attendance, the withdrawal date is the date Penny provided official notice of intent to withdraw—October 13. (Note that the school's policy that the withdrawal date is the date the student turns in the signed withdrawal form—which she did on October 15—is superceded by federal requirements for a student receiving Title IV aid.) Although Penny stopped attending classes on September 30, she didn't notify the school/begin the process until October 13. Remember when she came to see the FAO on October 8, she was only thinking about withdrawing. Note that the school could have documented a last date of attendance at an academically-related activity and used that as her withdrawal date if it so chose.

2. Payment period start date = August 23

3. Payment period end date = December 10

4. Percentage of payment period completed
   - Since the student attended a credit hour school, the percentage of aid completed is calculated by dividing the number of calendar days completed by the total number of calendar days in the payment period. Number of calendar days completed in payment period = 52 calendar days

   - Because the semester does not include a scheduled break of 5 or more consecutive days, all of the calendar days in the period from August 23 to December 10 are counted. Number of calendar days in payment period = 110 calendar days

   - 52 days / 110 days = .4727, rounded to .473, or 47.3%. Percentage of payment period completed = 47.3%

C. Percentage of payment period completed (47.3%), up to and including 60%; otherwise, if greater than 60%, then 100%. Percentage of Title IV aid earned = 47.3%.

Step 3: Amount of Title IV Aid Earned by the Student

D. 47.3% (% of Title IV aid earned from item C) X $2,312.50 (total Title IV aid disbursed plus Title IV aid that could have been disbursed from item B) = $1,093.812, rounded to $1,093.81. Amount of Title IV aid earned by the student = $1,093.81.

Step 4: Total Title IV Aid to be Disbursed or Returned

E. Because the total aid earned (item D) is greater than the total aid disbursed (item A), Penny is due a post-withdrawal disbursement. $1,093.81 (item D) – $750.00 (item A) = $343.81. Post-withdrawal disbursement = $343.81.

If a post-withdrawal disbursement is due the student, the next step is to complete the Post-Withdrawal Disbursement Tracking Sheet.

F. Title IV aid to be returned = N/A

Treatment of Title IV Funds When a Student Withdraws from a Credit Hour Program

Student's Name *Penny Jones* **Social Security Number** *Case Study 1*

Date Form Completed __/__/__ **Date of the institution's determination that the student withdrew** *10/13/*

Period used for calculation (check one) ✓ ☐ payment period ☐ period of enrollment

> Monetary amounts should be in dollars and cents (rounded to the nearest penny). Round to three decimal places when calculating percentages. For example, .4486 would be .449, or 44.9%.

STEP 1: Student's Title IV Aid Information

	Net Amount Disbursed	Net Amount That Could Have Been Disbursed		Amount Disbursed	Amount That Could Have Been Disbursed
1. Unsubsidized FFEL/Direct Stafford Loan			5. Pell Grant		*$1,562.50*
2. Subsidized FFEL/Direct Stafford Loan			6. FSEOG	*$750.00*	
3. Perkins Loan			7. Other Title IV programs*		
4. FFEL/Direct PLUS			*Do not include FWS.		

A. Total Title IV aid disbursed (NOT aid that could have been disbursed) for the payment period or period of enrollment **A** $ *750.00*

B. Total of Title IV aid disbursed plus the Title IV aid that could have been disbursed for the payment period or period of enrollment **B** $ *2,312.50*

STEP 2: Percentage of Title IV Aid Earned

C. • If school is not required to take attendance and student withdrew without notification, enter 50% in Box C and proceed to Step 3 OR school may enter a last date of attendance at an academically-related activity for "withdrawal date" and proceed from there.

• Withdrawal date *10/13/* Payment period/period of enrollment start date *8/23/* end date *12/10/*

• Percentage of payment period or period enrollment completed

Determine the calendar days completed in the payment period or period of enrollment divided by the total calendar days in the payment period or period or enrollment (exclude scheduled breaks of 5 days or more AND days that a student was on approved leaves of absence).

52 (completed days) ÷ *110* (total days) = *47.3* %

If this amount is less than or equal to 60%, enter this amount in Box C. If this amount is greater than 60% (with or without rounding), enter 100% in Box C. **C** *47.3*%

Step 3: Amount of Title IV Aid Earned by the Student

D. Percentage of Title IV aid earned (Box C) x the total of Title IV aid disbursed plus the Title IV aid that could have been disbursed for the payment period or period of enrollment (Box B)

47.3% (Box C) X $ *2,312.50* (Box B) = **D** $ *1,093.81*

Step 4: Total Title IV Aid to be Disbursed or Returned

If the amount in Box D is greater than the amount in Box A, go to item E. If the amount in Box A is greater than the amount in Box D, go to item F. **If the amounts in Boxes A and D are equal, STOP. No further action is necessary.**

E. ***Post-withdrawal disbursement***. Subtract Title IV aid disbursed for the payment period or period of enrollment (Box A) from the amount of Title IV aid earned (Box D). This is the amount of the post-withdrawal disbursement due. Stop here and go to the post-withdrawal disbursement tracking sheet.

$ *1,093.81* (Box D) – $ *750.00* (Box A) = **E** $ *343.81*

F. ***Title IV aid to be returned***. Subtract the amount of Title IV aid earned (Box D) from Title IV aid disbursed for the payment period or period of enrollment (Box A). This is the amount of Title IV aid that must be returned.

____ (Box A) – ____ (Box D) = **F** $.

Post-Withdrawal Disbursement Tracking Sheet

Student's Name *Penny Jones* **Social Security Number** *Case Study 1*

Amount of Post-Withdrawal Disbursement

A. Amount from Box E of "Treatment of Title IV Funds When a Student Withdraws" Worksheet **A** $ *343.81*

Post-Withdrawal Disbursement Credited to Student's Account

B. Total outstanding charges on student's account **B** $ *1,900.00*

C. Total amount of post-withdrawal disbursements credited to student's account

- Amount of post-withdrawal disbursement credited for tuition, fees, room and board (if student contracts with the institution) $ *343.81*
- Amount of post-withdrawal disbursement credited for other current charges + $ *0.00*
- Amount of post-withdrawal disbursement credited for minor prior year charges + $ *0.00*

Total Amount Credited to Account **C** $ *343.81*

D. Student and/or parent authorization to credit account for other current charges or minor prior year charges (if necessary) obtained on __/__/__

E. If a post-withdrawal disbursement of loan funds is credited to account, date of notification to student and/or parent __/__/__

Post-Withdrawal Disbursement Offered to Student/Parent

F. Total amount of post-withdrawal disbursement (Box A) – amount of post-withdrawal disbursement credited to student's account (Box C) = Total amount to offer to student/parent **F** $ *0.00*

G. Notification sent to student and/or parent on __/__/__

H. ☐ Response received from student/parent on __/__/__

☐ Response not received

I. Amount accepted **I** $.

J. Accepted funds sent on __/__/__

Post-Withdrawal Disbursement Made From

Pell Grant	*$343.81*	Subsidized FFEL/Direct Stafford Loan	
FSEOG		Unsubsidized FFEL/Direct Stafford Loan	
Other Title IV programs (grants)		Perkins Loan	
		FFEL/Direct PLUS	
		Other Title IV programs (loans)	

CASE STUDY 2: PENNY JONES

Treatment of other aid consisting of federal funds when calculating the return of Title IV funds.

Discussion

Penny's situation has changed somewhat. All of her Title IV aid, including her Pell Grant, was disbursed prior to her withdrawal from college (no change to the withdrawal date). In addition, she's not residing on campus, the $500.00 state grant she received consisted of 50% LEAP funds, and the semester has a fall break that runs October 18 through October 22.

Penny is the same student as in Case Study 3-1. The differences to the scenario are that Penny lives at home, all of her aid was disbursed prior to her withdrawal, her $500.00 state grant consists of 50% LEAP funds, and the fall semester has a scheduled break that runs Monday, October 18, through Friday, October 22.

Please complete Steps 1-4 on your own.

Solution

Date of the institution's determination that the student withdrew = October 13

Step 1: Student's Title IV Aid Information

A. Because the state grant consists of 50% LEAP funds, it must be included in the calculation. Remember, aid consisting in any part of identified Title IV funds (e.g., LEAP) is included in the calculation. Title IV aid disbursed = $2,812.50.

Pell Grant	$1,562.50
FSEOG	$ 750.00
State Grant	$ 500.00

B. All her aid was disbursed. Total Title IV aid disbursed plus Title IV aid that could have been disbursed = $2,812.50

Step 2: Percentage of Title IV Aid Earned

1. The withdrawal date stays the same. Withdrawal date = October 13

2. Payment period start date = August 23

3. Payment period end date = December 10

4. Percentage of payment period completed
   - The number of calendar days completed remains the same. (Penny withdrew before the scheduled fall break.) Number of calendar days completed in payment period = 52 calendar days.

   - Because the semester includes a scheduled break of at least five consecutive 5 days, not all of the calendar days in the period are counted. In this situation, the break begins on Monday and ends on Friday, and there are no classes on Saturday and Sunday. So, in addition to excluding the 5-day break from the count of calendar days, we also exclude both weekends immediately preceding and following the break (in this case, a total of 9 days). Number of calendar days in payment period = 101 calendar days.

- 52 days / 101 days = .5148, rounded to .515, or 51.5%. Percentage of payment period completed = 51.5%.

C. Percentage of Title IV aid earned = 51.5%. [Item C (51.5%) up to and including 60%; otherwise, if greater than 60%, then 100%.]

Step 3: Amount of Title IV Aid Earned by Student

D. 51.5% (% of Title IV aid earned from item C) X $2,812.50 (total Title IV aid disbursed plus Title IV aid that could have been disbursed from item B) = $1,448.437, rounded to $1448.44. Amount of Title IV aid earned by student = $1,448.44.

Step 4: Total Title IV Aid to be Disbursed or Returned

E. Because the total Title IV aid earned (item D) is less than the aid disbursed (item A), no post-withdrawal disbursement is due and we proceed to Item F. Post-withdrawal disbursement = N/A

F. Because the total aid disbursed (item A) is greater than the total aid earned (item D), Title IV aid will need to be returned. $2,812.50 (item A) – $1,448.44 (item D) = $1,364.06. Title IV aid to be returned = $1,364.06.

Step 5: Amount of Unearned Title IV Aid due from the School

G. Penny was not on campus in this scenario. Institutional charges for the payment period or period of enrollment = $1,400.00

Tuition and fees	$1,000.00
Books and Supplies	$ 400.00

H. Subtract % Title IV aid earned (item C) from 100% (100% - 51.5% = 48.5%). Percentage of Title IV aid unearned = 48.5%

I. First, calculate the amount of unearned institutional charges. $1,400.00 (institutional charges from item G) X 48.5% (% Title IV aid unearned from item H) = $679.00 (no rounding needed). Amount of unearned institutional charges = $679.00

J. Then, compare the amount of Title IV aid to be returned (item F) to unearned institutional charges (item I) and enter the lesser amount for item J.

Item F = $1,364.06
Item I = $ 679.00

Amount of unearned Title IV aid due from the school = $679.00

Step 6: Return of Funds by the School

No funds are returned to FSEOG and the LEAP grant, since the total Title IV aid returned does not exceed the amount of Pell received. Return of Funds by the School:

Pell Grant	$679.00

Step 7: Initial Amount of Unearned Title IV aid due from Student

K. Subtract the amount of Title IV aid that the school must return from the total amount of Title IV aid that is to be returned. $1,364.06 (item F) – $679.00 (item J) = $685.06.
Initial amount = $685.06

Step 8: Return of Funds by the Student

Initial amount to return multiplied by 50%. $685.06 X 50% = $342.53 (no rounding needed).
Return of funds by the student:

Pell Grant	$342.53

Treatment of Title IV Funds When a Student Withdraws from a Credit Hour Program

Student's Name *Penny Jones* **Social Security Number** *Case Study 2*

Date Form Completed __/__/__ **Date of the institution's determination that the student withdrew** *10/13/*

Period used for calculation (check one) v ☐ payment period ☐ period of enrollment

> Monetary amounts should be in dollars and cents (rounded to the nearest penny). Round to three decimal places when calculating percentages. For example, .4486 would be .449, or 44.9%.

STEP 1: Student's Title IV Aid Information

	Net Amount Disbursed	Net Amount That Could Have Been Disbursed		Amount Disbursed	Amount That Could Have Been Disbursed
1. Unsubsidized FFEL/Direct Stafford Loan			5. Pell Grant	*$1,562.50*	
2. Subsidized FFEL/Direct Stafford Loan			6. FSEOG	*$ 750.00*	
3. Perkins Loan			7. Other Title IV programs*	*$ 500.00*	
4. FFEL/Direct PLUS			*Do not include FWS.		

A. Total Title IV aid disbursed (NOT aid that could have been disbursed) for the payment period or period of enrollment **A** $ *2,812.50*

B. Total of Title IV aid disbursed plus the Title IV aid that could have been disbursed for the payment period or period of enrollment **B** $ *2,812.50*

STEP 2: Percentage of Title IV Aid Earned

C. • If school is not required to take attendance and student withdrew without notification, enter 50% in Box C and proceed to Step 3 OR school may enter a last date of attendance at an academically-related activity for "withdrawal date" and proceed from there.

- Withdrawal date *10/13/* Payment period/period of enrollment start date *8/23/* end date *12/10/*
- Percentage of payment period or period enrollment completed

Determine the calendar days completed in the payment period or period of enrollment divided by the total calendar days in the payment period or period or enrollment (exclude scheduled breaks of 5 days or more AND days that a student was on approved leaves of absence).

52 (completed days) ÷ *101* (total days) = *51.5* %

If this amount is less than or equal to 60%, enter this amount in Box C. If this amount is greater than 60% (with or without rounding), enter 100% in Box C. **C** *51.5*%

Step 3: Amount of Title IV Aid Earned by the Student

D. Percentage of Title IV aid earned (Box C) x the total of Title IV aid disbursed plus the Title IV aid that could have been disbursed for the payment period or period of enrollment (Box B)

51.5% (Box C) X *$ 2,812.50* (Box B) = **D** $ *1,448.44*

Step 4: Total Title IV Aid to be Disbursed or Returned

If the amount in Box D is greater than the amount in Box A, go to item E. If the amount in Box A is greater than the amount in Box D, go to item F. **If the amounts in Boxes A and D are equal, STOP. No further action is necessary.**

E. ***Post-withdrawal disbursement***. Subtract Title IV aid disbursed for the payment period or period of enrollment (Box A) from the amount of Title IV aid earned (Box D). This is the amount of the post-withdrawal disbursement due. Stop here and go to the post-withdrawal disbursement tracking sheet.

____ (Box D) − ____ (Box A) = **E** $.

F. ***Title IV aid to be returned***. Subtract the amount of Title IV aid earned (Box D) from Title IV aid disbursed for the payment period or period of enrollment (Box A). This is the amount of Title IV aid that must be returned.

$2,812.50 (Box A) − *$1,448.44* (Box D) = **F** $ *1,364.06*

Student's Name *Penny Jones* **Social Security Number** *Case Study 2*

STEP 5: Amount of Unearned Title IV Aid Due from the SCHOOL

G. Institutional charges for the payment period or period of enrollment

Tuition and Fees	*$1,000.00*	Board		Other	
Room		Other	*$400.00*	Other	

Total Institutional Charges **G** $ *1,400.00*

H. Percentage of Title IV aid unearned (100% - Box C) **H** *48.5%*

I. Multiply institutional charges for the payment period or period of enrollment (Box G) times the percentage of Title IV aid unearned (Box H).

$1,400.00 (Box G) X *48.5%* (Box H) = **I** $ *679.00*

J. Compare the amount of Title IV aid to be returned (Box F) to Box I and enter the lesser amount. **J** $ *679.00*

STEP 6: Return of Funds by the SCHOOL

The school must return the unearned aid for which the school is responsible (Box J) by repaying funds to the following sources, in order, up to the total net amount disbursed from each source.

	Amount for School to Return		Amount for School to Return
1. Unsubsidized FFEL/Direct Stafford Loan		5. Pell Grant	*$679.00*
2. Subsidized FFEL/Direct Stafford Loan		6. FSEOG	
3. Perkins Loan		7. Other Title IV programs	
4. FFEL/Direct PLUS			

STEP 7: Initial Amount of Unearned Title IV Aid Due from the STUDENT

K. Subtract the amount of Title IV due from the school (Box J) from the amount of Title IV to be returned (Box F).

$1,364.06 (Box F) – *$679.00* (Box J) = **K** $ *685.06*

STEP 8: Return of Funds by the STUDENT

The student (or parent for a PLUS loan) must return unearned aid for which the student is responsible (Box K) by repaying funds to the following sources, in order, up to the total net amount disbursed from each source, after subtracting the amount the school will return. Amounts to be returned to grants are reduced by 50%.

	Amount for Student to Return		Initial Amount to Return		Amount for Student to Return
1. Unsubsidized FFEL/Direct Stafford Loan*		5. Pell Grant	*$685.06*	x 50% =	*$342.53*
2. Subsidized FFEL/Direct Stafford Loan*		6. FSEOG		x 50% =	
3. Perkins Loan*		7. Other Title IV programs (x 50% for grant funds)			
4. FFEL/Direct PLUS*					

*Loan amounts are returned in accordance with the terms of the promissory note. No further action is required other than notification to the holder of the loan of the student's withdrawal date.

CASE STUDY 3: HARRY SPRINGER

Calculating the return of Title IV funds for a student who received loans and LEAP funds, and is attending a proprietary school (clock hour)

Learning Objectives

- Calculate ratio of completed clock hours to scheduled clock hours
- Calculate percentage of Title IV aid earned/unearned based on clock hours
- Determine withdrawal date for student who didn't provide notification of intent to withdraw

SCHOOL PROFILE

Quality Tech School (QTS) is a proprietary, clock-hour institution

Academic Year/Program:	900 clock hours 30 weeks
Period:	450 clock hours 15 weeks
Period Start Date:	September 7
Period End Date:	December 22
5 Consecutive Day Break:	No
Taking Attendance Required:	Yes
Method for Matching FSEOG:	Fund specific

Student Profile

Harry Springer enrolled at QTS for a fall term consisting of 450 clock hours over 15 weeks. Charges to his account are as follows:

Tuition and Fees	$	1,750.00/15 week period
Room and Board		(non-residential school)
Books and Supplies	$	250.00/15 week period
Student Account Balance:	$	250.00

Balances remaining on Harry's account include:

Books and Supplies	$	250.00

School authorized to credit account for other charges: Yes (all charges)

Harry Springer was eligible for the following annual awards:

Net Subsidized Stafford Loan	$	2,000.00
Perkins Loan	$	1,500.00
Institutional Awards	$	1,000.00

Discussion

His student account was credited with both Stafford and Perkins loan disbursements for the fall period. However, the disbursement of the institutional grant was placed on hold until Harry turns in a required form. Also, Harry did not live on campus but was charged $250.00 for books, which had to be purchased at Quality Tech's campus store.

Everything seemed to be going very well for Harry—until fall break. Due to personal problems, Harry didn't return to Quality Tech, and he didn't bother to let anyone know that he was dropping out. It wasn't until you called him on November 5—to give him a last chance to turn in the institutional form still needed—that you discovered he hadn't returned after fall break (November 2-4). Upon checking with the director of the program, you verified that Harry had completed 210 of the 250 clock hours scheduled for completion on the last day he attended prior to fall break (November 1).

Using the information provided, complete the worksheet.

> Note: Quality Tech is required to take attendance and uses the fund-specific method to match FSEOG funds. Harry withdrew without providing official notification.

Decide on the date of the school's determination that Harry withdrew, and then complete Step 1: Student's Title IV Aid Information.

Solution

November 5 is the date you called Harry about the needed form and he told you he wasn't coming back. Date of the institution's determination that the student withdrew = November 5.

Step 1: Student's Title IV Aid Information

A. Title IV aid disbursed = $1,750.00
  Subsidized Loan $1,000.00
  Perkins Loan $ 750.00

B. Total Title IV aid disbursed plus Title IV aid that could have been disbursed = $1,750.00

Note: All Title IV aid was disbursed.

Step 2: Percentage of Title IV aid earned

To be able to complete Step 2, we'll need to note:

- The total number of clock hours in the period = 450
- The number of clock hours Harry completed = 210
- The number of clock hours Harry was scheduled to complete = 250

1. November 1 is Harry's last date of attendance taken from attendance records. Withdrawal date = November 1.

2. Percentage of payment period completed
   - Calculation 1: Determine percentage of clock hours completed in the period. Divide the number of clock hours completed by the number of clock hours in the period. 210 / 450 = .4666, rounded to .467, or 46.7%. Since this percentage is less than (or equal to) 60%, proceed to Calculation 2. Clock hours completed = 46.7%.

   - Calculation 2: Determine the ratio of clock hours completed to clock hours scheduled to be completed. Divide the number of clock hours completed by the number of clock hours scheduled to be completed. 210 / 250 = .8400, rounded to .840, or 84.0%. Since this percentage is greater than 70%, calculate the percentage completed using scheduled clock hours (rather than completed clock hours). The ratio = 84.0%.

   - Determine percentage of payment period completed. 250 hours /450 hours = .5555, rounded to .556, or 55.6%.

C. Percentage of Title IV aid earned = 55.6%. Percentage of payment period completed (55.6%), up to and including 60%; otherwise, if greater than 60%, then 100%. (Note that the 60% threshold can't be reached using scheduled hours completed.) Percentage of payment period completed = 55.6%.

Step 3: Amount of Title IV Aid Earned by Student

D. 55.6% (% of Title IV aid earned from item C) X $1,750.00 (total Title IV aid disbursed and that could have been disbursed from item B) = $973.00 (no rounding needed). Amount of Title IV aid earned by student = $973.00.

Step 4: Total Title IV Aid to be Disbursed or Returned

E. Because the total Title IV aid earned (item D) is less than the aid disbursed (item A), no post-withdrawal disbursement is due and we proceed to Item F. Post-withdrawal disbursement = N/A.

F. Because the total Title IV aid disbursed (item A) is greater than the aid earned (item D), Title IV aid will need to be returned.. $1,750.00 (item A) - $973.00 (item D) = $777.00. Title IV aid to be returned = $777.00.

Step 5: Amount of Unearned Title IV Aid Due from the School

G. Institutional charges for the payment period or period of enrollment = $2,000.00

Tuition and Fees	$ 1,750.00
Books and Supplies	$ 250.00

Note: The charge for books and supplies is considered an institutional charge, since they must be purchased from Quality Tech's bookstore.

H. Subtract % Title IV aid earned (item C) from 100% (100% -55.6% = 44.4%). Percentage of Title IV aid unearned = 44.4%.

I. First, calculate the amount of unearned institutional charges. $2,000.00 (institutional charges from item G) X 44.4% (% Title IV aid unearned from item H) = $888.00 (no rounding needed). Amount of unearned institutional charges = $888.00.

J. Then, compare the amount of Title IV aid to be returned (item F) to unearned institutional charges (item I) and enter the lesser amount for item J.

Item F = $777.00

Item I = $888.00

Amount of unearned Title IV aid due from the school = $777.00.

Step 6: Return of Funds by the School

No Perkins funds are returned, since the total Title IV aid returned does not exceed the amount of the Subsidized loan ($777.00) received.

Step 7: Initial Amount of Unearned Title IV aid due from Student

K. Subtract the amount of Title IV aid that the school must return from the total amount of Title IV aid that is to be returned. $777.00 (item F) – $777.00 (item J) = $0.00.

Step 8: Return of Funds by the Student

N/A

Questions and Answers

Q: Under what scenario would institutional and/or state awards be used in calculating the return of Title IV funds?

A: Institutional awards are never included in the calculation. However, when a state grant is identified as a LEAP grant, it must be included.

Q: Since Harry did not provide notification that he was withdrawing from his clock hour program, how is the withdrawal date determined? And, since the number of clock hours completed is going to be used in the calculation, why do we need Harry's withdrawal date?

A: Harry's withdrawal date is taken from attendance records, since his school requires that attendance be taken. And, we need to know Harry's withdrawal date so that we can determine how many clock hours were scheduled to be completed as well as how many clock hours were completed as of the date he withdrew, as both are items of information needed to perform the calculation.

Q: What constitutes "official notification?"

A: Official notification is the notice that the student provides to the school that he or she is withdrawing. This can be done by following the school's prescribed policy or by providing the office(s) designated by the school the notice in writing or orally (in person, over the telephone by an individual acting on behalf of the student, or via alternative means specified by the school, such as a web site).

Treatment of Title IV Funds When a Student Withdraws from a Clock Hour Program

Student's Name *Harry Springer* **Social Security Number** *Case Study 3*

Date Form Completed __/__/__ **Date of the institution's determination that the student withdrew** *11 / 5 /*

Period used for calculation (check one) ☑ payment period ☐ period of enrollment

> Monetary amounts should be in dollars and cents (rounded to the nearest penny). Round to three decimal places when calculating percentages. For example, .4486 would be .449, or 44.9%.

STEP 1: Student's Title IV Aid Information

	Net Amount Disbursed	Net Amount That Could Have Been Disbursed		Amount Disbursed	Amount That Could Have Been Disbursed
1. Unsubsidized FFEL/Direct Stafford Loan			5. Pell Grant		
2. Subsidized FFEL/Direct Stafford Loan	*$1,000.00*		6. FSEOG		
3. Perkins Loan	*$ 750.00*		7. Other Title IV programs*		
4. FFEL/Direct PLUS			*Do not include FWS.		

A. Total Title IV aid disbursed (NOT aid that could have been disbursed) for the payment period or period of enrollment **A** *$ 1,750.00*

B. Total of Title IV aid disbursed plus the Title IV aid that could have been disbursed for the payment period or period of enrollment **B** *$ 1,750.00*

STEP 2: Percentage of Title IV Aid Earned

C. • Withdrawal date *11 / 1 /*

• Percentage of payment period or period enrollment completed

Calculation 1 – Determine the clock hours completed* in the payment period or period of enrollment divided by the total clock hours in the payment period or period of enrollment

210 (completed hours) ÷ *450* (total hours) = *46.7* %

If this percentage is greater than 60%, enter 100% in Box C and proceed to Step 3.

If this percentage is less than or equal to 60%, proceed to Calculation 2.

Calculation 2 – Determine the clock hours completed* in the payment period or period of enrollment divided by the clock hours scheduled to be completed as of the date the student withdrew.

210 (completed hours) ÷ *250* (scheduled to complete) = *84.0* %

If this amount is less than 70%, enter the percentage from Calculation 1 in Box C and proceed to Step 3. If this amount is 70% or greater, determine the clock hours scheduled to be completed as of the date the student withdrew divided by the total clock hours in the payment period or period of enrollment and enter this amount in Box C (this amount may be greater than 60%).

250 (scheduled to complete) ÷ *450* (total hours) = *55.6* %

*Excused absences do NOT count as completed hours. **C** *55.6%*

Step 3: Amount of Title IV Aid Earned by the Student

D. Percentage of Title IV aid earned (Box C) x the total of Title IV aid disbursed plus the Title IV aid that could have been disbursed for the payment period or period of enrollment (Box B)

55.6% (Box C) X *$1,750.00* (Box B) = **D** *$ 973.00*

Step 4: Total Title IV Aid to be Disbursed or Returned

If the amount in Box D is greater than the amount in Box A, go to item E. If the amount in Box A is greater than the amount in Box D, go to item F. **If the amounts in Boxes A and D are equal, STOP. No further action is necessary.**

Student's Name *Harry Springer* **Social Security Number** *Case Study 3*

Step 4: Total Title IV Aid to be Disbursed or Returned: Continued

E. ***Post-withdrawal disbursement***. Subtract Title IV aid disbursed for the payment period or period of enrollment (Box A) from the amount of Title IV aid earned (Box D). This is the amount of the post-withdrawal disbursement due. Stop here and go to the post-withdrawal disbursement tracking sheet.

Box D	–	Box A	=	E	$.

F. ***Title IV aid to be returned***. Subtract the amount of Title IV aid earned (Box D) from Title IV aid disbursed for the payment period or period of enrollment (Box A). This is the amount of Title IV aid that must be returned.

$1,750.00	–	*$973.00*	=	F	$ *777.00*
Box A		Box D			

STEP 5: Amount of Unearned Title IV Aid Due from the SCHOOL

G. Institutional charges for the payment period or period of enrollment

Tuition and Fees	*$1,750.00*	Board		Other	
Room		Other	*$ 250.00*	Other	

Total Institutional Charges G $ *2,000.00*

H. Percentage of Title IV aid unearned (100% - Box C) H *44.4%*

I. Multiply institutional charges for the payment period or period of enrollment (Box G) times the percentage of Title IV aid unearned (Box H).

$2,000.00	X	*44.4%*	=	I	$ *888.00*
Box G		Box H			

J. Compare the amount of Title IV aid to be returned (Box F) to Box I and enter the lesser amount. J $ *777.00*

STEP 6: Return of Funds by the SCHOOL

The school must return the unearned aid for which the school is responsible (Box J) by repaying funds to the following sources, in order, up to the total net amount disbursed from each source.

	Amount for School to Return		Amount for School to Return
1. Unsubsidized FFEL/Direct Stafford Loan		5. Pell Grant	
2. Subsidized FFEL/Direct Stafford Loan	*$777.00*	6. FSEOG	
3. Perkins Loan		7. Other Title IV programs	
4. FFEL/Direct PLUS			

STEP 7: Initial Amount of Unearned Title IV Aid Due from the STUDENT

K. Subtract the amount of Title IV due from the school (Box J) from the amount of Title IV to be returned (Box F).

$777.00	–	*$777.00*	=	K	$ *0.00*
Box F		Box J			

STEP 8: Return of Funds by the STUDENT

The student (or parent for a PLUS loan) must return unearned aid for which the student is responsible (Box K) by repaying funds to the following sources, in order, up to the total net amount disbursed from each source, after subtracting the amount the school will return. Amounts to be returned to grants are reduced by 50%.

	Amount for Student to Return		Initial Amount to Return		Amount for Student to Return
1. Unsubsidized FFEL/Direct Stafford Loan*		5. Pell Grant		x 50% =	
2. Subsidized FFEL/Direct Stafford Loan*		6. FSEOG		x 50% =	
3. Perkins Loan*		7. Other Title IV programs (x 50% for grant funds)			
4. FFEL/Direct PLUS*					

*Loan amounts are returned in accordance with the terms of the promissory note. No further action is required other than notification to the holder of the loan of the student's withdrawal date.

CASE STUDY 4: BILL DONAHUE

Calculating the return of Title IV funds for a student receiving grants and attending a four-year public university (trimesters)

Learning Objectives

- Determine the withdrawal date for a student attending a school that is required to take attendance
- Review the criteria that determine if a school is required to take attendance
- Determine the effect of FWS earnings on the return of Title IV funds calculation

SCHOOL PROFILE

Big State University (BSU) is a 4 year, public, residential credit hour institution.

Academic Year/Program:	3 trimesters 30 weeks
Period:	10 weeks (68 calendar days)
Period Start Date:	January 10
Period End Date:	March 17
5 Consecutive Day Break:	No
Taking Attendance Required:	Yes
Method for Matching FSEOG:	Fund specific

STUDENT PROFILE

Bill Donahue is a first-year student at BSU majoring in chemistry. Bill is living on campus and spends his free time at his FWS job in the Chemistry Department. Charges to his account are as follows:

Tuition and Fees	$	900.00/10 week trimester
Room	$	600.00/10 week trimester
Board	$	400.00/10 week trimester
Health Insurance	$	300.00/academic year (required of all students and remains in effect for the entire period, even if students cease attendance)

Balances remaining on Bill's account include:

Health Insurance	$	258.34

School Authorized to Credit Account for Other Charges: Yes (all charges

His financial aid for the academic year is:

Pell Grant	$	3,125.00
SEOG	$	2,100.00
FWS	$	1,800.00

Discussion

Bill is not required to purchase his books and supplies from BSU. On February 10 (32 calendar days), you were advised by the Chair of the Chemistry Department that Bill was suspended for the rest of the academic year (it appears that he was spending his FWS hours on his own "special projects" in the Chemistry Lab). Upon checking with his professors, you determined that his last date of class attendance was February 8 (30 calendar days). Prior to this incident, Bill's student account had been credited for the term with:

Pell Grant	$1,041.67
SEOG	$ 700.00
FWS	$ 200.00

Using the information provided, complete the worksheet.

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Solution

Date of the institution's determination that the student withdrew = February 10.

Step 1: Student's Title IV Aid Information

A. Remember, although disbursed, the FWS earnings ($200.00) are never included in the calculation. In addition, we used 100% of the FSEOG funds awarded for the semester, since BSU uses the funds-specific method of matching FSEOG funds. Title IV aid disbursed = $1,741.67

Pell Grant	$1,041.67
FSEOG	$ 700.00

B. Total Title IV aid disbursed plus Title IV aid that could have been disbursed = $1,741.67

Step 2: Percentage of Title IV Aid Earned

1. Big State U requires that attendance be taken. Therefore, Bill's date of withdrawal is taken from attendance records, which indicated that February 8 was his last date of attendance. Withdrawal date = February 8.

2. Payment period start date = January 10

3. Payment period end date = March 17

4. Date of institution's determination that Bill withdrew = February 10.

5. Percentage of payment period completed
   - Number of calendar days completed in payment period = 30 calendar days

   - Number of calendar days in payment period = 68 calendar days

   - 30 days / 68 days = .4411, rounded to .441, or 44.1%. Percentage of payment period completed = 44.1%

C. Item C up to and including 60%; otherwise, if greater than 60%, then 100%. Percentage of Title IV aid earned = 44.1%

Step 3: Amount of Title IV Aid Earned by Student

D. 44.1% (% of Title IV aid earned from item C) X $1,741.67 (total Title IV aid disbursed plus Title IV aid that could have been disbursed from item B) = $768.076, rounded to $768.08. Amount of Title IV aid earned by student = $768.08

Step 4: Total Title IV Aid to be Disbursed or Returned

E. Because the total Title IV aid earned (item D) is less than the aid disbursed (item A), no post-withdrawal disbursement is due and we proceed to Item F. Post-withdrawal disbursement = N/A

F. Because the total Title IV aid disbursed (item A) is greater than the aid earned (item D), Title IV aid will need to be returned. $1,741.67 (item A) - $768.08 (item D) = $973.59. Total Title IV aid to be returned = $973.59

Step 5: Amount of Unearned Title IV Aid Due from the School

G. Because health insurance is required of all students and remains in effect for the entire period, even if the student withdraws, it is not considered an institutional charge. Institutional charges for the payment period = $1,900.00

Tuition and Fees	$ 900.00
Room	$ 600.00
Board	$ 400.00

H. Subtract % Title IV aid earned (item C) from 100% (100% - 44.1% = 55.9%). Percentage of Title IV aid unearned = 55.9%.

I. First, calculate the amount of unearned institutional charges. $1,900.00 (institutional charges from item G) X 55.9% (%Title IV aid unearned from item H) = $1,062.10 (no rounding needed). Amount of unearned institutional charges =$1,062.10.

J. Then, compare the amount of Title IV aid to be returned (item F) to unearned institutional charges (item I) and enter the lesser amount for item J.

Item F =	$ 973.59
Item I =	$ 1,062.10

Amount of unearned Title IV aid due from the school = $973.59

Step 6: Return of Funds the School

No FSEOG funds are returned, since the total Title IV aid returned does not exceed the amount of the Pell Grant received. (FWS earnings are not included in the calculation.)

Pell Grant	$973.59

Step 7: Initial Amount of Unearned Title IV aid due from Student

K. Subtract the amount of Title IV aid that the school must return from the total amount of Title IV aid that is to be returned. $973.59 (item F) – $973.59 (item J) = $0.00. Initial amount of unearned Title IV aid due from student = $0.00.

Step 8: Return of Funds by the Student

N/A

Questions and Answers

Q: The amount of Pell Grant the school is responsible for returning is $973.59. Can the school round the amount? If so, to what?

A: Yes. The school could choose to round the amount. If so, the amount of Pell Grant returned would be $974, since monetary amounts are rounded to the nearest dollar.

Q: If BSU's accrediting agency required that attendance be taken only during the first two weeks of the term, would this change how the withdrawal date is determined?

A: Yes. The regulations do not pertain to schools that are required to take attendance for only a brief portion of the period. But, if an outside agency requires attendance to be taken for a group of students (such as those receiving benefits from another government agency), this last date of attendance for this group would be determined by attendance records (and the mid-point determination would not apply).

Q: Why wasn't the $200 in FWS wages that had been credited to Bill's student account included in the calculation?

A: FWS wages are never included in calculating the return of Title IV funds.

Treatment of Title IV Funds When a Student Withdraws from a Credit Hour Program

Student's Name *Bill Donahue* **Social Security Number** *Case Study 4*

Date Form Completed __/__/__ **Date of the institution's determination that the student withdrew** *2/10/*

Period used for calculation (check one) v ☐ payment period ☐ period of enrollment

> Monetary amounts should be in dollars and cents (rounded to the nearest penny). Round to three decimal places when calculating percentages. For example, .4486 would be .449, or 44.9%.

STEP 1: Student's Title IV Aid Information

	Net Amount Disbursed	Net Amount That Could Have Been Disbursed		Amount Disbursed	Amount That Could Have Been Disbursed
1. Unsubsidized FFEL/Direct Stafford Loan			5. Pell Grant	*$1,041.67*	
2. Subsidized FFEL/Direct Stafford Loan			6. FSEOG	*$ 700.00*	
3. Perkins Loan			7. Other Title IV programs*		
4. FFEL/Direct PLUS			*Do not include FWS.		

A. Total Title IV aid disbursed (NOT aid that could have been disbursed) for the payment period or period of enrollment **A** $ *1,741.67*

B. Total of Title IV aid disbursed plus the Title IV aid that could have been disbursed for the payment period or period of enrollment **B** $ *1,741.67*

STEP 2: Percentage of Title IV Aid Earned

C. • If school is not required to take attendance and student withdrew without notification, enter 50% in Box C and proceed to Step 3 OR school may enter a last date of attendance at an academically-related activity for "withdrawal date" and proceed from there.

- Withdrawal date *2/8/* Payment period/period of enrollment start date *1/10/* end date *3/17/*
- Percentage of payment period or period enrollment completed

Determine the calendar days completed in the payment period or period of enrollment divided by the total calendar days in the payment period or period or enrollment (exclude scheduled breaks of 5 days or more AND days that a student was on approved leaves of absence).

30 (completed days) ÷ *68* (total days) = *44.1* %

If this amount is less than or equal to 60%, enter this amount in Box C. If this amount is greater than 60% (with or without rounding), enter 100% in Box C.

C *44.1%*

Step 3: Amount of Title IV Aid Earned by the Student

D. Percentage of Title IV aid earned (Box C) x the total of Title IV aid disbursed plus the Title IV aid that could have been disbursed for the payment period or period of enrollment (Box B)

44.1% (Box C) X *$ 1,741.67* (Box B) = **D** $ *768.08*

Step 4: Total Title IV Aid to be Disbursed or Returned

If the amount in Box D is greater than the amount in Box A, go to item E. If the amount in Box A is greater than the amount in Box D, go to item F. **If the amounts in Boxes A and D are equal, STOP. No further action is necessary.**

E. ***Post-withdrawal disbursement***. Subtract Title IV aid disbursed for the payment period or period of enrollment (Box A) from the amount of Title IV aid earned (Box D). This is the amount of the post-withdrawal disbursement due. Stop here and go to the post-withdrawal disbursement tracking sheet.

____ (Box D) – ____ (Box A) = **E** $.

F. ***Title IV aid to be returned***. Subtract the amount of Title IV aid earned (Box D) from Title IV aid disbursed for the payment period or period of enrollment (Box A). This is the amount of Title IV aid that must be returned.

$1,741.67 (Box A) – *$768.08* (Box D) = **F** $ *973.59*

Student's Name *Bill Donahue* **Social Security Number** *Case Study 4*

STEP 5: Amount of Unearned Title IV Aid Due from the SCHOOL

G. Institutional charges for the payment period or period of enrollment

Tuition and Fees	*$900.00*	Board	*$400.00*	Other	
Room	*$600.00*	Other		Other	

Total Institutional Charges **G** $ *1,900.00*

H. Percentage of Title IV aid unearned (100% - Box C) **H** *55.9%*

I. Multiply institutional charges for the payment period or period of enrollment (Box G) times the percentage of Title IV aid unearned (Box H).

$1,900.00 (Box G) X *55.9%* (Box H) = **I** $ *1,062.10*

J. Compare the amount of Title IV aid to be returned (Box F) to Box I and enter the lesser amount. **J** $ *973.59*

STEP 6: Return of Funds by the SCHOOL

The school must return the unearned aid for which the school is responsible (Box J) by repaying funds to the following sources, in order, up to the total net amount disbursed from each source.

	Amount for School to Return		Amount for School to Return
1. Unsubsidized FFEL/Direct Stafford Loan		5. Pell Grant	*$973.59*
2. Subsidized FFEL/Direct Stafford Loan		6. FSEOG	
3. Perkins Loan		7. Other Title IV programs	
4. FFEL/Direct PLUS			

STEP 7: Initial Amount of Unearned Title IV Aid Due from the STUDENT

K. Subtract the amount of Title IV due from the school (Box J) from the amount of Title IV to be returned (Box F).

$973.59 (Box F) – *$973.59* (Box J) = **K** $ *0.00*

STEP 8: Return of Funds by the STUDENT

The student (or parent for a PLUS loan) must return unearned aid for which the student is responsible (Box K) by repaying funds to the following sources, in order, up to the total net amount disbursed from each source, after subtracting the amount the school will return. Amounts to be returned to grants are reduced by 50%.

	Amount for Student to Return		Initial Amount to Return		Amount for Student to Return
1. Unsubsidized FFEL/Direct Stafford Loan*		5. Pell Grant		x 50% =	
2. Subsidized FFEL/Direct Stafford Loan*		6. FSEOG		x 50% =	
3. Perkins Loan*		7. Other Title IV programs (x 50% for grant funds)			
4. FFEL/Direct PLUS*					

*Loan amounts are returned in accordance with the terms of the promissory note. No further action is required other than notification to the holder of the loan of the student's withdrawal date.

CASE STUDY 5: JOSEANNE CARR

Calculating the return of Title IV funds for a student attending a four-year private school (semesters) and receiving loans (partially disbursed)

Learning Objectives

- Calculate the return of Title IV funds for a student who is responsible for returning loan funds
- Determine how to handle Title IV funds that were not disbursed prior to the student's withdrawal
- Determine the distinction between the student's withdrawal date and the date the school determined the student withdrew

School Profile

Elite College of the South (ECS) is a 2 and 4 year private, credit hour institution.

Academic Year/Program:	2 semesters 30 weeks
Period:	15 weeks 105 calendar days
Period Start Date:	September 9
Period End Date:	December 22
5 Consecutive Day Break:	No
Taking Attendance Required:	Yes
Method for Matching FSEOG:	N/A

STUDENT PROFILE

Joseanne Carr entered ECS one academic year ago. Charges to her account are as follows:

Tuition and Fees	$	5,500.00/15 week semester
Student Account Balance:	$	0.00
School Authorized to Credit Account for Other Charges:		Yes (all charges)

Joseanne's financial aid package included the following annual awards:

Subsidized Stafford Loan	$	970.00
Unsubsidized Stafford Loan	$	727.50
PLUS Loan	$	5,335.00
ECS Award	$	1,000.00

Discussion

Upon entering ECS one academic year ago, Joseanne Carr was torn between a four-year program in communications and a two-year program in interior design. After consulting her personal online psychic, she chose the program in interior design and decided to live off campus. Amazingly, the psychic must have gotten Joseanne's reading confused with someone else's, as Joseanne is really struggling in her third semester and has decided that she needs some time away. Although she planned to stop by the Financial Aid Office on October 4 to let those kind folks know that she was withdrawing, she was late for an appointment with her manicurist and didn't have the time. Luckily, by October 14, all of Joseanne's professors had contacted you to advise that she had stopped attending classes. You determined that her last date of attendance was October 1 (23 calendar days into the semester). At that point, her charges for the semester were $5,500.00, and all of her financial aid, except the unsubsidized loan that was projected to be in on October 17, was disbursed.

Using the information provided, complete the worksheet.

Solution

Date of the institution's determination that the student withdrew = October 14

Step 1: Student's Title IV Aid Information

A. Title IV aid disbursed = $6,305.00

Subsidized Loan	$ 970.00
PLUS	$5,335.00

B. Aid that was disbursed plus aid that could have been disbursed includes the Unsubsidized Stafford loan of $727.50 that could have been disbursed. Total Title IV aid disbursed plus Title IV aid that could have been disbursed = $7,032.50.

Step 2: Percentage of Title IV Aid Earned

1. Withdrawal date = October 1

2. Payment period start date = September 9

3. Payment period end date = December 22

4. Percentage of payment period completed
   - Number of calendar days completed in payment period = 23 calendar days

   - Number of calendar days in payment period = 105 calendar days

   - 23 days /105 days =.2190, rounded to .219, or 21.9%. Percentage of payment period completed = 21.9%

C. Item C up to and including 60%; otherwise, if greater than 60%, then 100%. Percentage of Title IV aid earned = 21.9%

Step 3: Amount of Title IV Aid Earned by Student

D. 21.9% (% of Title IV aid earned from item C) X $7,032.50 (total Title IV aid disbursed plus Title IV aid that could have been disbursed from item B) = $1,540.117, rounded to $1,540.12. Amount of Title IV aid earned by student = $1,540.12

Step 4: Total Title IV Aid to be Disbursed or Returned

E. Because the total Title IV aid earned (item D) is less than the aid disbursed (item A), no post-withdrawal disbursement is due and we proceed to Item F. Post-withdrawal disbursement = N/A.

F. Because the total aid disbursed (item A) is greater than the total aid earned (item D), Title IV aid will need to be returned. $6,305.00 (item A) – $1,540.12 (item D) = $4,764.88. Total Title IV aid to be returned = $4,764.88.

Step 5: Amount of Unearned Title IV Aid Due from the School

G. Institutional charges for the payment period or period of enrollment = $5,500.00.

Tuition and Fees	$5,500.00

H. Subtract % Title IV aid earned (item C) from 100% (100% - 21.9% = 78.1%). Percentage of Title IV aid unearned = 78.1%.

I. First, calculate the amount of unearned institutional charges. $5,500.00 (institutional charges from item G) X 78.1% (% Title IV aid unearned from item H) = $4,295.50 (no rounding needed). Amount of unearned institutional charges =$4,295.50.

J. Then, compare the amount of Title IV aid to be returned (item F) to unearned institutional charges (item I) and enter the lesser amount for item J.

Item F =	$ 4,764.88
Item I =	$ 4,295.50

Amount of unearned Title IV aid due from the school = $4,295.50.

Step 6: Return of Funds by the School

Subsidized Loan	$ 970.00
PLUS Loan	$3,325.50

Note: The non-disbursed Unsubsidized Stafford loan of $727.50 will need to be cancelled.

Step 7: Initial Amount of Unearned Title IV aid due from Student

K. Subtract the amount of Title IV aid that the school must return from the total amount of Title IV aid that is to be returned. $4,764.88 (item F) – $4,295.50 (item J) = $469.38. Initial amount of unearned Title IV aid due from student = $469.38.

Step 8: Return of Funds by the Student

PLUS Loan	$469.38

Note: Remember, in the case of Parent PLUS loans, the parent—not the student—is responsible for returning the loan funds as per the terms of the promissory note signed.

Questions and Answers

Q: What would the withdrawal date have been if taking attendance were not required at ECS and you had not discovered Joseanne's withdrawal until the last week of the fall semester?

A: Because Joseanne did not begin the withdrawal process or otherwise notify the school of her intent to withdraw, the withdrawal date would have been "the midpoint of the payment period for which Program Assistance was disbursed." In this case, her professors documented from attendance records that she stopped attending on October 1, before the midpoint of the period. Therefore, attendance at an academically-related event later than the mid-point of the period wouldn't apply.

Q: How do Joseanne's parents take care of returning the PLUS loan funds of $469.38? When all is said and done, how much of the original net disbursement of $5,335.00 will they still owe?

A: They simply repay the funds in accordance with the terms of the promissory note. And, they still owe $2,009.50 ($5,335.00 -$ 3325.50 = $2,009.50), plus loan origination fees.

Q: What is the distinction between "withdrawal date" and "date of the institution's determination that the student withdrew" in the return of Title IV funds?

A: Withdrawal date impacts the number of days the student completed and, in turn, the percentage of aid earned as well as the percentage of aid unearned. The date of the institution's determination that the student withdrew starts the clock with regard to the various time-sensitive requirements to which the institution and student must adhere.

Remember that these dates are not necessarily one in the same.

Treatment of Title IV Funds When a Student Withdraws from a Credit Hour Program

Student's Name *Joseanne Carr* **Social Security Number** *Case Study 5*

Date Form Completed __/__/__ **Date of the institution's determination that the student withdrew** *10/14/*

Period used for calculation (check one) v☐ payment period ☐ period of enrollment

Monetary amounts should be in dollars and cents (rounded to the nearest penny). Round to three decimal places when calculating percentages. For example, .4486 would be .449, or 44.9%.

STEP 1: Student's Title IV Aid Information

	Net Amount Disbursed	Net Amount That Could Have Been Disbursed		Amount Disbursed	Amount That Could Have Been Disbursed
1. Unsubsidized FFEL/Direct Stafford Loan		*$ 727.50*	5. Pell Grant		
2. Subsidized FFEL/Direct Stafford Loan	*$ 970.00*		6. FSEOG		
3. Perkins Loan			7. Other Title IV programs*		
4. FFEL/Direct PLUS	*$5,335.00*		*Do not include FWS.		

A. Total Title IV aid disbursed (NOT aid that could have been disbursed) for the payment period or period of enrollment **A** *$ 6,305.00*

B. Total of Title IV aid disbursed plus the Title IV aid that could have been disbursed for the payment period or period of enrollment **B** *$ 7,032.50*

STEP 2: Percentage of Title IV Aid Earned

C. • If school is not required to take attendance and student withdrew without notification, enter 50% in Box C and proceed to Step 3 OR school may enter a last date of attendance at an academically-related activity for "withdrawal date" and proceed from there.

- Withdrawal date *10/1/* Payment period/period of enrollment start date *9/9/* end date *12/22/*
- Percentage of payment period or period enrollment completed

Determine the calendar days completed in the payment period or period of enrollment divided by the total calendar days in the payment period or period or enrollment (exclude scheduled breaks of 5 days or more AND days that a student was on approved leaves of absence).

23 (completed days) ÷ *105* (total days) = *21.9* %

If this amount is less than or equal to 60%, enter this amount in Box C. If this amount is greater than 60% (with or without rounding), enter 100% in Box C.

C *21.9%*

Step 3: Amount of Title IV Aid Earned by the Student

D. Percentage of Title IV aid earned (Box C) x the total of Title IV aid disbursed plus the Title IV aid that could have been disbursed for the payment period or period of enrollment (Box B)

21.9% (Box C) x *$ 7,032.50* (Box B) = **D** *$ 1,540.12*

Step 4: Total Title IV Aid to be Disbursed or Returned

If the amount in Box D is greater than the amount in Box A, go to item E. If the amount in Box A is greater than the amount in Box D, go to item F. **If the amounts in Boxes A and D are equal, STOP. No further action is necessary.**

E. ***Post-withdrawal disbursement***. Subtract Title IV aid disbursed for the payment period or period of enrollment (Box A) from the amount of Title IV aid earned (Box D). This is the amount of the post-withdrawal disbursement due. Stop here and go to the post-withdrawal disbursement tracking sheet.

____ (Box D) – ____ (Box A) = **E** $.

F. ***Title IV aid to be returned***. Subtract the amount of Title IV aid earned (Box D) from Title IV aid disbursed for the payment period or period of enrollment (Box A). This is the amount of Title IV aid that must be returned.

$6,305.00 (Box A) – *$1,540.12* (Box D) = **F** *$ 4,764.88*

Student's Name *Joseanne Carr* **Social Security Number** *Case Study 5*

STEP 5: Amount of Unearned Title IV Aid Due from the SCHOOL

G. Institutional charges for the payment period or period of enrollment

Tuition and Fees	*$5,500.00*	Board		Other	
Room		Other		Other	

Total Institutional Charges **G** *$ 5,500.00*

H. Percentage of Title IV aid unearned (100% - Box C) **H** *78.1%*

I. Multiply institutional charges for the payment period or period of enrollment (Box G) times the percentage of Title IV aid unearned (Box H).

$5,500.00 (Box G) X *78.1%* (Box H) = **I** *$ 4,295.50*

J. Compare the amount of Title IV aid to be returned (Box F) to Box I and enter the lesser amount. **J** *$ 4,295.50*

STEP 6: Return of Funds by the SCHOOL

The school must return the unearned aid for which the school is responsible (Box J) by repaying funds to the following sources, in order, up to the total net amount disbursed from each source.

	Amount for School to Return		Amount for School to Return
1. Unsubsidized FFEL/Direct Stafford Loan		5. Pell Grant	
2. Subsidized FFEL/Direct Stafford Loan	*$ 970.00*	6. FSEOG	
3. Perkins Loan		7. Other Title IV programs	
4. FFEL/Direct PLUS	*$3,325.50*		

STEP 7: Initial Amount of Unearned Title IV Aid Due from the STUDENT

K. Subtract the amount of Title IV due from the school (Box J) from the amount of Title IV to be returned (Box F).

$4,764.88 (Box F) – *$4,295.50* (Box J) = **K** *$ 469.38*

STEP 8: Return of Funds by the STUDENT

The student (or parent for a PLUS loan) must return unearned aid for which the student is responsible (Box K) by repaying funds to the following sources, in order, up to the total net amount disbursed from each source, after subtracting the amount the school will return. Amounts to be returned to grants are reduced by 50%.

	Amount for Student to Return		Initial Amount to Return		Amount for Student to Return
1. Unsubsidized FFEL/Direct Stafford Loan*		5. Pell Grant		x 50%=	
2. Subsidized FFEL/Direct Stafford Loan*		6. FSEOG		x 50%=	
3. Perkins Loan*		7. Other Title IV programs (x 50% for grant funds)			
4. FFEL/Direct PLUS*	*$469.38*				

*Loan amounts are returned in accordance with the terms of the promissory note. No further action is required other than notification to the holder of the loan of the student's withdrawal date.

CASE STUDY 6: RONNIE DESMOND

Calculating the return of Title IV funds for a student attending a four-year, low-cost private school (semesters) and receiving loans and grants (partially disbursed)

Learning Objectives

- Calculate the return of Title IV funds for a student who is responsible for returning loan and grant funds
- Determine the school's requirements for dealing with a student who owes a grant overpayment
- Review the effect of rescinding a notice of intent to withdraw on determining the student's withdrawal date

School Profile

Heartland of the Country College (HCC) is a 4 year private, credit hour institution.

Academic Year/Program:	2 semesters 30 weeks
Period:	15 weeks 114 calendar days
Period Start Date:	January 13
Period End Date:	May 5
5 Consecutive Day Break:	No
Taking Attendance Required:	No
Method for Matching FSEOG:	Fund specific

STUDENT PROFILE

Ronnie Desmond is a first-time freshman at HCC. Charges to his account are as follows:

Tuition and Fees	$	1,000.00/15 week semester
Room and Board		(non-residential student)
Books and Supplies	$	250.00/15 week semester
Student Account Balance:	$	0.00

School Authorized to Credit Account for Other Charges:	Yes (all charges)

Ronnie's financial aid package includes the following annual awards:

Subsidized Stafford Loan	$	557.75 (Net)
Pell Grant	$	1,562.50
FSEOG	$	1,000.00

Discussion

Just recently, Ronnie Desmond and his sister, Mary, ended a short run as hosts of a local radio program. Unsure of what to do with the rest of his life, Ronnie decided to enroll as a first-time freshman at HCC for the spring semester. Along with his tuition and fees, he was charged $250.00 for books and supplies, which must be purchased from the campus bookstore. Although he had to take out a small student loan for living expenses, he had the full support of his wife. Ronnie did very well—until March 20, when he and Mary got a call from the radio station promising a very lucrative long-term contract and begging them to come back. That same day, Ronnie contacted the Financial Aid Office to advise that he was withdrawing from HCC (at 68 calendar days into the semester) and to find out what to do next. With the exception of the Stafford loan that had just been certified, all of his financial aid for the semester had been disbursed.

Using the information provided, complete the worksheet.

Solution

Date of the institution's determination that the student withdrew = March 20

Step 1: Student's Title IV Aid Information

A. Because HCC uses the fund-specific method of matching FSEOG funds, 100% of Ronnie's FSEOG grant is used in the calculation. Title IV aid disbursed = $2,562.50

Pell Grant	$1,562.50
FSEOG	$1,000.00

B. Aid that was disbursed plus aid that could have been disbursed includes the subsidized Stafford Loan of $557.75 that could have been disbursed. Total Title IV aid disbursed plus Title IV aid that could have been disbursed = $3,120.25

Step 2: Percentage of Title IV Aid Earned

1. Withdrawal date = March 20

2. Payment period start date = January 13

3. Payment period end date = May 5

4. Percentage of payment period completed
   - Number of calendar days completed in payment period = 68 calendar days

   - Number of calendar days in payment period = 114 calendar days

   - 68 days / 114 days =.5964, rounded to .596, or 59.6%. Percentage of payment period completed = 59.6%

C. Item C up to and including 60%; otherwise, if greater than 60%, then 100%. Percentage of Title IV aid earned = 59.6%

Step 3: Amount of Title IV Aid Earned by Student

D. 59.6% (% of Title IV aid earned from item C) X $3,120.25 (total Title IV aid disbursed plus Title IV aid that could have been disbursed from item B) = $1,859.669 (rounded to $1,859.67). Amount of Title IV aid earned by student = $1,859.67

Step 4: Total Title IV Aid to be Disbursed or Returned

E. Because the total Title IV aid earned (item D) is less than the aid disbursed (item A), no post-withdrawal disbursement is due and we proceed to Item F. Post-withdrawal disbursement = N/A

F. Because the total aid disbursed (item A) is greater than the total aid earned (item D), Title IV aid will need to be returned. $2,562.50 (item A) – $1,859.67 (item D) = $702.83. Title IV aid to be returned = $702.83

Step 5: Amount of Unearned Title IV Aid Due from the School

G. Institutional charges for the payment period or period of enrollment = $1,250.00

Tuition and Fees	$1,000.00
Books and Supplies	$ 250.00

H. Subtract % Title IV aid earned (item C) from 100% (100% - 59.6% = 40.4%). Percentage of Title IV aid unearned = 40.4%.

I. First, calculate the amount of unearned institutional charges. $1,250.00 (institutional charges from item G) X 40.4% (% Title IV aid unearned from item H) = $505.00 (no rounding needed). Amount of unearned institutional charges = $505.00

J. Then, compare the amount of amount of Title IV aid to be returned (item F) to unearned institutional charges (item I) and enter the lesser amount for item J.

Item F = $ 702.83
Item I = $ 505.00

Amount of unearned Title IV aid due from the school = $505.00

Step 6: Return of Funds by the School

Pell Grant $505.00

Note: The non-disbursed Subsidized loan of $557.75 would need to be cancelled.

Step 7: Initial Amount of Unearned Title IV aid due from Student

K. Subtract the amount of Title IV aid that the school must return from the total amount of Title IV aid that is to be returned. $702.83 (item F) – $505.00 (item J) = $197.83. Initial amount of unearned Title IV aid due from student = $197.83.

Step 8: Return of Funds by the Student

Initial amount to return multiplied by 50%. $197.83 X 50% = $98.915 (rounded to 98.92).

Pell Grant $98.92

Questions and Answers

Q: Had Ronnie's loan been disbursed at the time of withdrawal, would he have had to repay (return) the loan immediately?

A: No. Immediate repayment of the loan is not required because it is expected the loan will be repaid according to the terms and conditions of the promissory note the student signed.

Q: What happens if Ronnie is unable to repay the portion of the Pell Grant that must be returned?

A: Ronnie remains eligible for Title IV aid for up to 45 days from the earlier of the date the school mails him a notification of his obligation or the date the school is required to send him that notification. Ronnie can continue his eligibility by returning the overpayment or by agreeing to a repayment arrangement. Please see pages XX to XX for a complete discussion of a school's notification responsibilities and a student's options.

Q: What would the withdrawal date have been if Ronnie had changed his mind and rescinded his notice of withdrawal, and finally decided definitely to withdraw on March 27?

A: The withdrawal date used for the calculation of return of Title IV funds would have been the earlier date, March 20. Remember that if the institution allows the student to rescind the official notification of intent to withdraw, and the student subsequently ceases attendance, the rescission is negated and the withdrawal date is the student's original withdrawal date.

Treatment of Title IV Funds When a Student Withdraws from a Credit Hour Program

Student's Name *Ronnie Desmond* **Social Security Number** *Case Study 6*

Date Form Completed __/__/__ **Date of the institution's determination that the student withdrew** *3/20/*

Period used for calculation (check one) ☑ payment period ☐ period of enrollment

> Monetary amounts should be in dollars and cents (rounded to the nearest penny). Round to three decimal places when calculating percentages. For example, .4486 would be .449, or 44.9%.

STEP 1: Student's Title IV Aid Information

	Net Amount Disbursed	Net Amount That Could Have Been Disbursed		Amount Disbursed	Amount That Could Have Been Disbursed
1. Unsubsidized FFEL/Direct Stafford Loan			5. Pell Grant	*$1,562.50*	
2. Subsidized FFEL/Direct Stafford Loan		*$557.75*	6. FSEOG	*$1,000.00*	
3. Perkins Loan			7. Other Title IV programs*		
4. FFEL/Direct PLUS			*Do not include FWS.		

A. Total Title IV aid disbursed (NOT aid that could have been disbursed) for the payment period or period of enrollment **A** $ *2,562.50*

B. Total of Title IV aid disbursed plus the Title IV aid that could have been disbursed for the payment period or period of enrollment **B** $ *3,120.25*

STEP 2: Percentage of Title IV Aid Earned

C. • If school is not required to take attendance and student withdrew without notification, enter 50% in Box C and proceed to Step 3 OR school may enter a last date of attendance at an academically-related activity for "withdrawal date" and proceed from there.

- Withdrawal date *3/20/* Payment period/period of enrollment start date *1/13/* end date *5/5/*
- Percentage of payment period or period enrollment completed

Determine the calendar days completed in the payment period or period of enrollment divided by the total calendar days in the payment period or period or enrollment (exclude scheduled breaks of 5 days or more AND days that a student was on approved leaves of absence).

68 (completed days) ÷ *114* (total days) = *59.6* %

If this amount is less than or equal to 60%, enter this amount in Box C. If this amount is greater than 60% (with or without rounding), enter 100% in Box C.

C *59.6%*

Step 3: Amount of Title IV Aid Earned by the Student

D. Percentage of Title IV aid earned (Box C) x the total of Title IV aid disbursed plus the Title IV aid that could have been disbursed for the payment period or period of enrollment (Box B)

59.6% (Box C) X *$3,120.25* (Box B) = **D** $ *1,859.67*

Step 4: Total Title IV Aid to be Disbursed or Returned

If the amount in Box D is greater than the amount in Box A, go to item E. If the amount in Box A is greater than the amount in Box D, go to item F. **If the amounts in Boxes A and D are equal, STOP. No further action is necessary.**

E. ***Post-withdrawal disbursement.*** Subtract Title IV aid disbursed for the payment period or period of enrollment (Box A) from the amount of Title IV aid earned (Box D). This is the amount of the post-withdrawal disbursement due. Stop here and go to the post-withdrawal disbursement tracking sheet.

____ (Box D) – ____ (Box A) = **E** $ ____.__

F. ***Title IV aid to be returned.*** Subtract the amount of Title IV aid earned (Box D) from Title IV aid disbursed for the payment period or period of enrollment (Box A). This is the amount of Title IV aid that must be returned.

$2,562.50 (Box A) – *$1,859.67* (Box D) = **F** $ *702.83*

Student's Name *Ronnie Desmond* **Social Security Number** *Case Study 6*

STEP 5: Amount of Unearned Title IV Aid Due from the SCHOOL

G. Institutional charges for the payment period or period of enrollment

Tuition and Fees	*$1,000.00*	Board		Other	
Room		Other	*$250.00*	Other	

Total Institutional Charges **G** $ *1,250.00*

H. Percentage of Title IV aid unearned (100% - Box C) **H** *40.4%*

I. Multiply institutional charges for the payment period or period of enrollment (Box G) times the percentage of Title IV aid unearned (Box H).

$1,250.00 (Box G) X *40.4%* (Box H) = **I** $ *505.00*

J. Compare the amount of Title IV aid to be returned (Box F) to Box I and enter the lesser amount. **J** $ *505.00*

STEP 6: Return of Funds by the SCHOOL

The school must return the unearned aid for which the school is responsible (Box J) by repaying funds to the following sources, in order, up to the total net amount disbursed from each source.

	Amount for School to Return		Amount for School to Return
1. Unsubsidized FFEL/Direct Stafford Loan		5. Pell Grant	*$505.00*
2. Subsidized FFEL/Direct Stafford Loan		6. FSEOG	
3. Perkins Loan		7. Other Title IV programs	
4. FFEL/Direct PLUS			

STEP 7: Initial Amount of Unearned Title IV Aid Due from the STUDENT

K. Subtract the amount of Title IV due from the school (Box J) from the amount of Title IV to be returned (Box F).

$702.83 (Box F) - *$505.00* (Box J) = **K** $ *197.83*

STEP 8: Return of Funds by the STUDENT

The student (or parent for a PLUS loan) must return unearned aid for which the student is responsible (Box K) by repaying funds to the following sources, in order, up to the total net amount disbursed from each source, after subtracting the amount the school will return. Amounts to be returned to grants are reduced by 50%.

	Amount for Student to Return		Initial Amount to Return		Amount for Student to Return
1. Unsubsidized FFEL/Direct Stafford Loan*		5. Pell Grant	*$197.83*	x 50% =	*$98.92*
2. Subsidized FFEL/Direct Stafford Loan*		6. FSEOG		x 50% =	
3. Perkins Loan*		7. Other Title IV programs (x 50% for grant funds)			
4. FFEL/Direct PLUS*					

*Loan amounts are returned in accordance with the terms of the promissory note. No further action is required other than notification to the holder of the loan of the student's withdrawal date.

Treatment of Title IV Funds When a Student Withdraws from A Clock Hour Program

Student's Name ______________________________ **Social Security Number** ____________________

Date Form Completed ____/____/____ **Date of the institution's determination that the student withdrew** ____/____/____

Period used for calculation (check one) ☐ payment period ☐ period of enrollment

> Monetary amounts should be in dollars and cents (rounded to the nearest penny). Round to three decimal places when calculating percentages. For example, .4486 would be .449, or 44.9%.

STEP 1: Student's Title IV Aid Information

	Net Amount Disbursed	Net Amount That Could Have Been Disbursed		Amount Disbursed	Amount That Could Have Been Disbursed
1. Unsubsidized FFEL/Direct Stafford Loan	________	________	5. Pell Grant	________	________
2. Subsidized FFEL/Direct Stafford Loan	________	________	6. FSEOG	________	________
3. Perkins Loan	________	________	7. Other Title IV programs*	________	________
4. FFEL/Direct PLUS	________	________	*Do not include FWS.		

A. Total Title IV aid disbursed (NOT aid that could have been disbursed) for the payment period or period of enrollment **A** $ ______ . ___

B. Total of Title IV aid disbursed plus the Title IV aid that could have been disbursed for the payment period or period of enrollment **B** $ ______ . ___

STEP 2: Percentage of Title IV Aid Earned

C. • Withdrawal date ____/____/____

- Percentage of payment period or period of enrollment completed

Calculation 1 - Determine the clock hours completed* in the payment period or period of enrollment divided by the total clock hours in the payment period or period of enrollment ☐ ÷ ☐ = ____ . %

completed hours total hours

If this percentage is greater than 60%, enter 100% in Box C and proceed to Step 3.

If this percentage is less than or equal to 60%, proceed to Calculation 2.

Calculation 2 - Determine the clock hours completed* in the payment period or period of enrollment divided by the clock hours scheduled to be completed as of the date the student withdrew. ☐ ÷ ☐ = ____ . %

completed hours scheduled to complete

If this amount is less than 70%, enter the percentage from Calculation 1 in Box C and proceed to Step 3. If this amount is 70% or greater, determine the clock hours scheduled to be completed as of the date the student withdrew divided by the total clock hours in the payment period or period of enrollment and enter this amount in Box C (this amount may be greater than 60%).

*Excused absences do NOT count as completed hours. ☐ ÷ ☐ = ____ . % **C** ______ . %

scheduled to complete total hours

STEP 3: Amount of Title IV Aid Earned by the Student

D. Percentage of Title IV aid earned (Box C) x the total of Title IV aid disbursed plus the Title IV aid that could have been disbursed for the payment period or period of enrollment (Box B) ☐ % x ☐ = **D** $ ______ . ___

Box C Box B

STEP 4: Total Title IV Aid to be Disbursed or Returned

If the amount in Box D is greater than the amount in Box A, go to item E. If the amount in Box A is greater than the amount in Box D, go to item F. **If the amounts in Boxes A and D are equal, STOP. No further action is necessary.**

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Student's Name ______________________ **Social Security Number** ____________________

STEP 4: Total Title IV Aid to be Disbursed or Returned: Continued

E. ***Post-withdrawal disbursement.*** Subtract Title IV aid disbursed for the payment period or period of enrollment (Box A) from the amount of Title IV aid earned (Box D). This is the amount of the post-withdrawal disbursement due. Stop here and go to the post-withdrawal disbursement tracking sheet.

☐ – ☐ = **E** $.

Box D, Box A

F. ***Title IV aid to be returned.*** Subtract the amount of Title IV aid earned (Box D) from Title IV aid disbursed for the payment period or period of enrollment (Box A). This is the amount of Title IV aid that must be returned.

☐ – ☐ = **F** $.

Box A, Box D

STEP 5: Amount of Unearned Title IV Aid Due from the SCHOOL

G. Institutional charges for the payment period or period of enrollment

Tuition and Fees ________ Board ________________ Other ________________

Room ________ Other ________________ Other ________________

Total Institutional Charges **G** $.

H. Percentage of Title IV aid unearned (100% - Box C) **H** . %

I. Multiply institutional charges for the payment period or period of enrollment (Box G) times the percentage of Title IV aid unearned (Box H).

☐ x ☐ % = **I** $.

Box G, Box H

J. Compare the amount of Title IV aid to be returned (Box F) to Box I and enter the lesser amount. **J** $.

STEP 6: Return of Funds by the SCHOOL

The school must return the unearned aid for which the school is responsible (Box J) by repaying funds to the following sources, in order, up to the total net amount disbursed from each source.

	Amount for School to Return		Amount for School to Return
1. Unsubsidized FFEL/Direct Stafford Loan	________	5. Pell Grant	________
2. Subsidized FFEL/Direct Stafford Loan	________	6. FSEOG	________
3. Perkins Loan	________	7. Other Title IV programs	________
4. FFEL/Direct PLUS	________		

STEP 7: Initial Amount of Unearned Title IV Aid Due from the STUDENT

K. Subtract the amount of Title IV aid due from the school (Box J) from the amount of Title IV aid to be returned (Box F).

☐ – ☐ = **K** $.

Box F, Box J

STEP 8: Return of Funds by the STUDENT

The student (or parent for a PLUS loan) must return unearned aid for which the student is responsible (Box K) by repaying funds to the following sources, in order, up to the total net amount disbursed from each source, after subtracting the amount the school will return. Amounts to be returned to grants are reduced by 50%.

	Amount for Student to Return		Initial Amount to Return		Amount for Student to Return
1. Unsubsidized FFEL/Direct Stafford Loan*	________	5. Pell Grant	________	x 50%=	________
2. Subsidized FFEL/Direct Stafford Loan*	________	6. FSEOG	________	x 50%=	________
3. Perkins Loan*	________	7. Other Title IV programs	________		
4. FFEL/Direct PLUS*	________	(x 50% for grant funds)			

*Loan amounts are returned in accordance with the terms of the promissory note. No further action is required other than notification to the holder of the loan of the student's withdrawal date.

Treatment of Title IV Funds When a Student Withdraws from a Credit Hour Program

Student's Name ______________________ **Social Security Number** ________________

Date Form Completed ___/___/___ **Date of the institution's determination that the student withdrew** ___/___/___

Period used for calculation (check one) ☐ payment period ☐ period of enrollment

Monetary amounts should be in dollars and cents (rounded to the nearest penny). Round to three decimal places when calculating percentages. For example, .4486 would be .449, or 44.9%.

STEP 1: Student's Title IV Aid Information

	Net Amount Disbursed	Net Amount That Could Have Been Disbursed		Amount Disbursed	Amount That Could Have Been Disbursed
1. Unsubsidized FFEL/Direct Stafford Loan	______	______	5. Pell Grant	______	______
2. Subsidized FFEL/Direct Stafford Loan	______	______	6. FSEOG	______	______
3. Perkins Loan	______	______	7. Other Title IV programs*	______	______
4. FFEL/Direct PLUS	______	______	*Do not include FWS.		

A. Total Title IV aid disbursed (NOT aid that could have been disbursed) for the payment period or period of enrollment **A** $.

B. Total of Title IV aid disbursed plus the Title IV aid that could have been disbursed for the payment period or period of enrollment **B** $.

STEP 2: Percentage of Title IV Aid Earned

C. • If school is not required to take attendance and student withdrew without notification, enter 50% in Box C and proceed to Step 3 OR school may enter a last date of attendance at an academically-related activity for "withdrawal date" and proceed from there.

- Withdrawal date ___/___/___ Payment period/period of enrollment start date ___/___/___ end date ___/___/___
- Percentage of payment period or period of enrollment completed

Determine the calendar days completed in the payment period or period of enrollment divided by the total calendar days in the payment period or period of enrollment (exclude scheduled breaks of 5 days or more AND days that the student was on approved leaves of absence).

☐ ÷ ☐ = ____ . %
completed days total days

If this amount is less than or equal to 60%, enter this amount in Box C. If this amount is greater than 60% (with or without rounding), enter 100% in Box C.

C . %

STEP 3: Amount of Title IV Aid Earned by the Student

D. Percentage of Title IV aid earned (Box C) x the total of Title IV aid disbursed plus the Title IV aid that could have been disbursed for the payment period or period of enrollment (Box B)

☐ % x ☐ =
Box C Box B

D $.

STEP 4: Total Title IV Aid to be Disbursed or Returned

If the amount in Box D is greater than the amount in Box A, go to item E. If the amount in Box A is greater than the amount in Box D, go to item F. **If the amounts in Boxes A and D are equal, STOP. No further action is necessary.**

E. ***Post-withdrawal disbursement.*** Subtract Title IV aid disbursed for the payment period or period of enrollment (Box A) from the amount of Title IV aid earned (Box D). This is the amount of the post-withdrawal disbursement due. Stop here and go to the post-withdrawal disbursement tracking sheet.

☐ - ☐ =
Box D Box A

E $.

F. ***Title IV aid to be returned.*** Subtract the amount of Title IV aid earned (Box D) from Title IV aid disbursed for the payment period or period of enrollment (Box A). This is the amount of Title IV aid that must be returned.

☐ - ☐ =
Box A Box D

F $.

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Student's Name ______________________ **Social Security Number** ______________

STEP 5: Amount of Unearned Title IV Aid Due from the SCHOOL

G. Institutional charges for the payment period or period of enrollment

Tuition and Fees ________ Board ______________ Other ______________
Room ________ Other ______________ Other ______________

Total Institutional Charges **G** $.

H. Percentage of Title IV aid unearned (100% - Box C) **H** . %

I. Multiply institutional charges for the payment period or period of enrollment (Box G) times the percentage of Title IV aid unearned (Box H). ______ x ______ % = **I** $.
Box G Box H

J. Compare the amount of Title IV aid to be returned (Box F) to Box I and enter the lesser amount. **J** $.

STEP 6: Return of Funds by the SCHOOL

The school must return the unearned aid for which the school is responsible (Box J) by repaying funds to the following sources, in order, up to the total net amount disbursed from each source.

	Amount for School to Return		Amount for School to Return
1. Unsubsidized FFEL/Direct Stafford Loan	________	5. Pell Grant	________
2. Subsidized FFEL/Direct Stafford Loan	________	6. FSEOG	________
3. Perkins Loan	________	7. Other Title IV programs	________
4. FFEL/Direct PLUS	________		

STEP 7: Initial Amount of Unearned Title IV Aid Due from the STUDENT

K. Subtract the amount of Title IV aid due from the school (Box J) from the amount of Title IV aid to be returned (Box F). ______ – ______ = **K** $.
Box F Box J

STEP 8: Return of Funds by the STUDENT

The student (or parent for a PLUS loan) must return unearned aid for which the student is responsible (Box K) by repaying funds to the following sources, in order, up to the total net amount disbursed from each source, after subtracting the amount the school will return. Amounts to be returned to grants are reduced by 50%.

	Amount for Student to Return		Initial Amount to Return		Amount for Student to Return
1. Unsubsidized FFEL/Direct Stafford Loan*	________	5. Pell Grant	________	x 50%=	________
2. Subsidized FFEL/Direct Stafford Loan*	________	6. FSEOG	________	x 50%=	________
3. Perkins Loan*	________	7. Other Title IV programs (x 50% for grant funds)	________		
4. FFEL/Direct PLUS*	________				

*Loan amounts are returned in accordance with the terms of the promissory note. No further action is required other than notification to the holder of the loan of the student's withdrawal date.

Post-Withdrawal Disbursement Tracking Sheet

Student's Name ______________________ **Social Security Number** ________________

Amount of Post-Withdrawal Disbursement

A. Amount from Box E of "Treatment of Title IV Funds When a Student Withdraws" Worksheet **A** $.

Post-Withdrawal Disbursement Credited to Student's Account

B. Total outstanding charges on student's account **B** $.

C. Total amount of post-withdrawal disbursement credited to student's account

- Amount of post-withdrawal disbursement credited for tuition, fees, room and board (if student contracts with the institution) $ __________
- Amount of post-withdrawal disbursement credited for other current charges + $ __________
- Amount of post-withdrawal disbursement credited for minor prior year charges + $ __________

Total Amount Credited to Account **C** $.

D. Student and/or parent authorization to credit account for other current charges or minor prior year charges (if necessary) obtained on ___/___/___

E. If a post-withdrawal disbursement of loan funds is credited to account, date of notification to student and/or parent ___/___/___

Post-Withdrawal Disbursement Offered to Student/Parent

F. Total amount of post-withdrawal disbursement (Box A) – amount of post-withdrawal disbursement credited to student's account (Box C) = Total amount to offer to student/parent **F** $.

G. Notification sent to student and/or parent on ___/___/___

H. ☐ Response received from student/parent on ___/___/___

☐ Response not received

I. Amount accepted **I** $.

J. Accepted funds sent on ___/___/___

Post-Withdrawal Disbursement Made From

Pell Grant __________
FSEOG __________
Other Title IV programs (grants) __________

Subsidized FFEL/Direct Stafford Loan __________
Unsubsidized FFEL/Direct Stafford Loan __________
Perkins Loan __________
FFEL/Direct PLUS __________
Other Title IV programs (loans) __________

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Student Withdrawal/Overpayment Referral to ED/SFA Collections

Student Information

Name (Last, First, MI):

Address:

Telephone Numbers:

Social Security Number:

Date of Birth:

Student's Pell Origination ID:

Parent/Spouse Information

Name (Last, First, MI):

Address:

Telephone Numbers:

School Information

Name of Contact:

Telephone Numbers:

School's Pell Identification Number:

Disbursements and Repayments

	Federal Pell	Federal SEOG
Award year of overpayment:		
Grant funds applied to institutional charges:		
Grant funds disbursed to student:		
Total Grant Disbursement:		
Dates of disbursement **(must match NSLDS overpayment record):**		
Date notice of overpayment was mailed to student:		
Amount of grant for student to return (50% of initial calculation):		
Total grant amount repaid by student to school:		
Date of last payment to school, if any:		
Total being referred for collection:		*

If using fund-specific matching, report federal share only. Otherwise report total FSEOG. *

SEND INFORMATION TO ⇛ Student Loan Processing Center-Overpayments
P.O. Box 4157
Greenville, TX 75403

(903) 408-4634 ⇚ **FAX**

Return of Title IV Funds Requirements and Deadlines

Party Responsible	Requirement	Deadline
School	**Determining withdrawal date** for student who withdraws without providing notification	30 days after the end of the earlier of: • Payment or enrollment period •Academic year in which student withdrew • Educational program from which student withdrew
School	**Return of unearned Title IV funds**	As soon as possible, but no later than 30 days after date school determined student withdrew
School	**Post-withdrawal disbursement to student's account for:** • Outstanding current (allowable) charges (e.g., tuition and fees, room and board, etc.) • Minor (under $100) prior year charges for which school has authorization to retain	Within 90 days of date school determined student withdrew, in accordance with requirements for disbursing Title IV funds (§668.164)
School	**Written notification providing student (or parent) opportunity to cancel all/ part of loan,** for post-withdrawal disbursements of loan funds (Perkins, FFEL, Direct Loan, or PLUS) to student's account	Within 30 days of disbursement of loan funds, in accordance with requirements for notifications and authorizations (§668.165)
School	**Written notification of student's eligibility for post-withdrawal disbursement in excess of outstanding current (educationally-related) charges**	Within 30 days of date school determined student withdrew
Student (or parent)	**Submit response instructing school to make post-withdrawal disbursement**	Within 14 days of date school sent notification
School	**Post-withdrawal disbursement to student** for earned Title IV funds in excess of outstanding current (educationally-related) charges	Within 90 days of date school determined student withdrew
School	**Notification to student (or parent) of outcome of late request for a post-withdrawal disbursement to student** (request received by school after 14 day period and school chooses not to make disbursement)	Not specified
School	**Notification to student of grant overpayment**	Within 30 days of date school determined student withdrew
School	**Referral of student to the Secretary,** if student does not pay overpayment in full, does not enter into repayment agreement, or fails to meet terms of repayment agreement	Not specified

Return of Title IV Funds Requirements for Notifications

Party Responsible	Notification	Requirements
School	**Consumer Information**	• School's withdrawal policy • School's refund policy • Office(s) designated to recieve official notifications of intent to withdraw • Requirements regarding the return of Title IV funds
School	**Written notification of student's eligibility for post-withdrawal disbursement of funds in excess of outstanding current charges (educationally-related)**	• Identify type and amount of Title IV funds that make up post-withdrawal disbursement not credited to student's account • Explain that student or parent may accept all or part of disbursement • Advise student or parent that no post-withdrawal disbursement will be made unless school receives reponse within 14 days of date school sent notice
School	**Response (written or electronic) to late request for post-withdrawal disbursement (that school chooses not to make)**	• Outcome of request
School	**Repayment Agreement**	• Terms permitting student to repay overpayment while maintaining eligibility for Title IV funds • Repayment in full within 2 years of date school determined student withdrew

Withdrawal Dates for a School That Is Not Required to Take Attendance

Withdrawal Type	Circumstance	Student's Withdrawal Date[1]	Date of the Institution's Determination that the Student has Withdrawn[2]
Official Notification	The student begins the school's withdrawal process, or The student otherwise provides official notification to the school of intent to withdraw.	The date that the student begins the school's withdrawal process, or The date that the student otherwise provides the notification. (If both circumstances occur, use the earlier withdrawal date.)	The student's withdrawal date.
Official Notification Not Provided	Official notification not provided by the student because of circumstances beyound the student's control. All other instances where student withdraws without providing official notification.	The date that the school determines is related to the circumstance beyound the student's control. The midpoint of the payment period or period of enrollment, as applicable.	The date that the school becomes aware that the student has ceased attendance.
Leave of Absence Related	The student does not return from an approved leave of absence, or The student takes an unapproved leave of absence.	The date that the student began the leave of absence.	The earliest of the dates of the end of the leave of absence or the date the student notifies the school he or she will not be returning to that school. (In the case of a an unapproved absence, the date that the student began the leave of absence.)
Withdrawal After Rescission of Official Notification	The student withdraws after rescinding a previous official notification of withdrawal.	The student's original withdrawal date from the previous official notification.	The date the school becomes aware that the student did not, or will not, complete the program period or period of enrollment.

1. In place of the dates listed, a school may always use as a student's withdrawal date the student's last date of attendance at an academically-related activity, if the school documents that the activity is academically related and that the student attended the activity.

2. For a student who withdraws without providing notification to the school, the school must determine the withdrawal date no later than 30 days after the end of the earlier of the (1) payment period or period of enrollment (as appropriate) , (2) academic year, or (3) educational program.

Consumer Information

CHAPTER 7

This chapter provides information on the requirements for the consumer information that a school must provide to students, the Department, and others.

In addition to the disclosure of information required under the basic consumer information requirements, there are disclosure requirements with which schools must comply.

They are:

Student Right-To-Know and Campus Security Act of 1990:

- Annual Security Report: Institutional Security Policies and Crime Statistics.
- Information on Completion or Graduation Rates,
- Report on Completion or Graduation Rates for Student Athletes,

Equity in Athletics Disclosure Act:

- Report on Athletic Program Participation Rates and Financial Support Data.

Also, schools that participate in the campus-based programs must comply with disclosure requirements for drug and alcohol abuse prevention. Although some of these disclosure requirements contain common elements, they are all required separately. (See the chart below.)

In a continuing effort to reduce the number of defaulted federal student loans, it is important to provide students with information necessary to choose an appropriate academic program and to fully understand the responsibility of loan repayment. This chapter briefly addresses required loan counseling, but the loan counseling requirements are covered in detail in *Volume 5 — Perkins* and *Volume 8 — FFEL/DL.*

This chapter also includes a summary of the effects of misrepresentation of institutional information on a school's SFA participation.

Electronic Media Cite
Sec. 485(a)

List of Information Cite
Sec. 485(a)

Basic Consumer Information Requirements Cites
34 CFR 668.42, 668.43, 668.44

Generally speaking, the Higher Education Amendments of 1998, Public Law 105-244 (the Amendments of 1998) include electronic media in the means a school may use to provide required consumer information to students. The Amendments also clarify that a school must make the information available upon request to both currently enrolled and prospective students. This provision became effective October 1, 1998.

Note that in some cases a school is only required to make information available upon request, while in others the school must directly distribute the required information.

SCHOOL DISCLOSURE REQUIREMENTS

Student Right-to-Know and Campus Security Act of 1990

Campus Security Final Regulations published April 29, 1994; effective July 1, 1994; Technical Corrections published June 30, 1995; Final Regulations revised and published Nov. 1, 1999; effective July 1, 2000. REQUIRES: Disclosure of data on crimes committed on campus and campus safety policies and procedures (34 CFR 668.46).

Student Right-to-Know Final Regulations published December 1, 1995; effective July 1, 1996; Final Regulations revised and published Nov. 1, 1999; effective July 1, 2000. REQUIRES: Disclosure of graduation or completion rates and transfer-out rates for:
1) the general population of full-time, first-time degree or certificate-seeking, undergraduate students (34 CFR 668.45), and
2) students who receive athletically-related student aid, broken down by race and gender within sports (34 CFR 668.48).

Equity in Athletics Disclosure Act

Final Regulations published November 29, 1995; effective July 1, 1996; updated Final Regulations revised and published November 1, 1999; effective July 1, 2000. REQUIRES: Disclosure of data on participation rates and financing of men's and women's sports in intercollegiate athletic programs at coeducational schools.

ALSO REQUIRED: Data on revenues, total expenses, and operating expenses of intercollegiate athletic programs. This provision was formerly found in the Program Participation Agreement section of the law and was implemented in final regulations published April 29, 1994; effective July 1, 1994. The Amendments of 1998 moved the provision to the EADA section of the law (34 CFR 668.47).

The Amendments require that each year a school must provide to enrolled students a list of the information it must disseminate under the Higher Education Act of 1965, as amended, and the Family Education Rights and Privacy Act (FERPA) and the procedures for obtaining the information. This provision is effective October 1, 1998.

BASIC CONSUMER INFORMATION REQUIREMENTS

Subpart D of the General Provisions lists basic information about the school and about financial aid that must be available to enrolled and prospective students. If necessary, these materials must be prepared by the school. However, much of the required data may already be available in brochures and handouts routinely disseminated by the school, or in federal publications such as *The Student Guide*. You can find a chart summarizing a school's consumer information reporting responsibilities at the end of this Chapter.

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Financial Aid Information

The following minimum information must be provided:

- what need-based and non-need-based federal financial aid is available to students;
- what need-based and non-need based state and local aid programs, school aid programs, and other private aid programs are available;
- how students apply for aid and how eligibility is determined;
- how the school distributes aid among students;
- the rights and responsibilities of students receiving aid;
- how and when financial aid will be disbursed;
- the terms and conditions of any employment that is part of the financial aid package;
- the terms of, schedules for, and the necessity of loan repayment and required loan exit counseling;
- the criteria for measuring satisfactory academic progress, and how a student who has failed to maintain satisfactory progress may reestablish eligibility for federal financial aid;
- information on preventing drug and alcohol abuse;
- information regarding the availability of SFA Program funds for study abroad programs; and
- that a student may be eligible for SFA Program funds for attending a study abroad program that is approved for credit by the home school.
- the terms and conditions under which students receiving federal education loans may obtain deferments while serving (a) in the Peace Corps; (b) under the Domestic Volunteer Service Act; and (c) as a volunteer for a tax exempt organization of demonstrated effectiveness in the field of community service.

General Information about the School

The school must provide the following minimum information about itself:

- the names of associations, agencies, and/or governmental bodies that accredit, approve, or license the school and its programs, and the procedures by which a student may receive a copy for review of the school's accreditation, licensure, or approval;

- special facilities and services available to disabled students;

- the costs of attending the school (tuition and fees, books and supplies, room and board and applicable transportation costs, such as commuting) and any additional costs of the program in which the student is enrolled or has expressed an interest;

- a statement of the requirements for the return of SFA Program funds when a student withdraws from school, information about any refund policy with which the school must comply, and the requirements for officially withdrawing from the school. This provision was modified by the Amendments to conform to changes made to the "refund" requirements. For more information, see Chapter 6.

- the degree programs, training, and other education offered;

- the availability of a GED program, if the school admits students who do not have a high school diploma or equivalent;

- the instructional, laboratory, and other physical plant facilities associated with the academic programs;

- a list of the faculty and other instructional personnel;

- the satisfactory progress standards that students must maintain; and

- who to contact for information on student financial assistance and on general institutional issues.

- the school's campus security report, as discussed on page 2-199 (the Amendments added this report to the list of general disclosures, effective October 1, 1998).

The school must have someone available during normal operating hours to help persons obtain consumer information. One full-time employee or several persons may be assigned so that someone is always available (with reasonable notice) to assist enrolled or prospective students and their families. Existing personnel may satisfy this requirement. A school may request a waiver of this requirement if it can demonstrate that a waiver is appropriate. A school should contact the Case Management and Oversight for more information (see page 2-286 for the CMO addresses).

CONSUMER INFORMATION FROM THE DEPARTMENT

Consumer Information From the Department
Sec. 484(d)

The Department is required to make available to schools, lenders, and secondary schools descriptions of the SFA Programs in order to assist students in gaining information through institutional sources, and assist schools in carrying out the SFA Program requirements. The Department does this through a variety of informational sources such as *The Student Guide*, the Department's web page (e.g. www.ifap.ed.gov and www.students.gov), and this Handbook.

The Amendments of 1998 added the following requirements:

- To the extent the information is available, the Department will compile and disseminate information describing state and other prepaid tuition and savings programs.
- The Department will update its Internet site to include direct links to databases with information on public and private financial assistance programs that are accessible without charge. The Department will make clear that linking to a database is not an endorsement of the database.
- Additional direct links will be provided by the Department to resources from which students may obtain information about fraudulent and deceptive financial aid practices; and
- The Department will make a reasonable effort to verify that linked databases do not contain fraudulent information.

The provisions became effective October 1, 1998.

STUDENT RIGHT TO KNOW AND CAMPUS SECURITY ACT

Student Right to Know Cite
Sec. 485(a)

The Amendments of 1998 require that Student Right-to-Know disclosures be made by July 1 of each year.

The Student Right-to-Know Act requires schools to disclose:

1. Completion or graduation rates and if applicable transfer-out rates for a specific cohort of the general student body. This includes certificate-or degree-seeking, full-time, first time undergraduate students who entered the school during the 1997-98 academic year. The cohort year is September 1-August 31.
2. Completion or graduation rates and if applicable transfer out rates to current and prospective students.
3. Completion or graduation rates and if applicable transfer out rates, of students receiving athletically related student aid, if the institution offers athletic aid. The institution must provide the information in 1 and 2 above to potential student-athletes,

their parents, high school coach and guidance counselors upon making an offer of athletic aid.

Prior to the Amendments of 1998, schools were required to disclose transfer out rates. Now, in addition to calculating the completion or graduation rates described within this section, a school **may, but is not required** to calculate:

1. A completion or graduation rate for students who transfer into the school;

2. A completion or graduation rate and transfer-out rate for the students described as "Exceptions" to the requirements in this section; including students who –
   - have left school to serve in the Armed Forces;
   - have left school to serve on official church missions;
   - have left school to serve with a foreign aid service of the Federal Government, such as the Peace Corps; or
   - are totally and permanently disabled.

3. A transfer-out rate, if the school determines its mission does not include providing substantial preparation for its students to enroll in another eligible school.

A school is required to calculate and disclose its transfer out rates if it determines that its mission includes preparing students to enroll in other institutions (such as a community college).

For the general student body cohort rates and rates related to athletically related student aid, schools must disclose information on completion rates and if applicable transfer-out rates on certificate- or degree-seeking, full-time undergraduate students who enter the school during the 1997-98 academic year. The cohort year is September 1-August 31.

Determining the Cohort for Completion or Graduation and Transfer-Out Rates

To calculate completion or graduation and transfer-out rates, a school must identify a group of students each year (a cohort) and monitor the cohort over time to determine the percentage of those students who complete their programs or transfer out of the school. The same "snapshot" approach is used to determine rates for both the general student body cohort and those rates related to athletically related student aid. The regulations specify which cohort a school must use, based on the programs that the school offers.

To achieve greater consistency between term and non-term institutions, the following changes were implemented through Negotiated Rule making in 1999:

For programs less than or equal to one academic year in length, schools should include in the cohort only students who are enrolled for at least fifteen days.

For programs longer than one academic year, schools should include in the cohort only students who are enrolled for at least thirty days.

NEW

Standard Term Schools

A school that offers most of its programs based on standard terms (semesters, trimesters, quarters) must use a fall cohort of first-time undergraduates for these calculations. That is, the school must count all first-time freshmen who are certificate- or degree-seeking, full-time undergraduate students who enter the school during the fall term. For a fall cohort, a student has entered the school if he or she enrolled for the fall term (or during the summer immediately preceding the fall term) and is still enrolled as of October 15, the end of the school's drop-add period for the fall term or another official reporting date (in the fall) on which a school must report fall enrollment data to either the State, its board of trustees or governing board, or some other external governing body.

NEW

Nonstandard Term or Non-Term Schools

A school that does not offer most of its programs based on standard terms must count all first-time students who are certificate- or degree-seeking, full-time undergraduate students who enter the school between September 1 and August 31. For a cohort for nonstandard term and non-term schools, a student has entered the school if he or she has attended at least 15 days, in a program of up to and including, one year in length, 30 days, in a program of greater than one year in length.

Schools may not include students who transfer into the school from another school as entering students for purposes of these calculations; however, a school may calculate a completion rate for students who transfer into the school as a separate, supplemental rate.

Definitions

The definitions of certificate- or degree-seeking students, first-time freshman students, and undergraduate students were adopted (with slight modifications to address the Student Right-to Know statute) from the National Center for Education Statistics (NCES's) Integrated Postsecondary Education Data System (IPEDS) Graduation Rate Survey (GRS).

Certificate- or degree-seeking student- a student enrolled in a course for credit who is recognized by the school as seeking a degree or certificate.

First-time undergraduate student- an entering undergraduate who has never attended any institution of higher education. Includes a student enrolled in the fall term who attended a postsecondary institution for the first time in the prior summer term, and a student who entered with advanced standing (college credit earned before graduation from high school).

Undergraduate students- students enrolled in a 4- or 5-year bachelor's degree program, an associate's degree program, or a vocational or technical program below the baccalaureate level.

Schools must use the SFA definition of a *full-time student* that is found in the Student Assistance General Provisions regulations (see *Volume 1 — Student Eligibility*).

Cite
34 CFR 668.45

Waivers

The regulations provide for a waiver of completion or graduation rate and transfer-out rate calculations for the general student body cohort and for athletic data to any school that is a member of an athletic association or conference that has voluntarily published (or will publish) completion or graduation data that the Department determines is substantially comparable to the data required by the regulations.

The Amendments of 1998 allow the NCAA to distribute graduation rate information to all secondary schools in the U.S. to satisfy the distribution requirements for prospective student athletes' guidance counselors and coaches. This does not relieve the school of its obligation to provide the information to the prospective student and his or her parents.

The Department will continue to work with interested agencies to help them develop standards that meet these requirements. If in the future the Department determines that another agency's requirements meet the standards of the Student Right-to-Know Act, the Department will inform schools that those rates may be used to satisfy the Student Right-to-Know requirements.

Reporting Information on Completion or Graduation Rates for the General Student Body Cohort

The requirements for disclosing this information have been broken down into three steps: determining the cohort, calculating the rates, and disclosing the rates.

Step 1 - Determining the cohort

Schools must determine the cohort as described on pages 2-182 and 2-183 to identify students in such a way that it can take a snapshot of those same students at a later time.

Step 2 - Calculating the rates

Once a school has identified a cohort, it must determine how many of those students completed their program and if applicable how many transferred out of their program at the point in time that 150 percent of the normal time for completion of each program has elapsed for all of the students in the cohort.

Definition of "Normal Time"

Normal time is the amount of time necessary for a student to complete all requirements for a degree or certificate according to the school's catalog. This is typically

- four years (eight semesters or trimesters, or 12 quarters, excluding summer terms) for a bachelor's degree in a standard term-based school,
- two years (four semesters or trimesters, or six quarters, excluding summer terms) for an associate degree in a standard term-based school, and
- the various scheduled times for certificate programs.

$$\frac{\text{Number of students in cohort who completed their program within 150\% of normal time for completion}}{\text{Number of students in cohort (minus permitted exclusions)}}$$

The following formula is used to calculate a completion rate for the general student body cohort:

Definition of a "Completor"

A student is counted as a completor if

- the student completed his or her program within 150 percent of the normal time for completion from their program, or
- the student has completed a transfer preparatory program within 150 percent of the normal time for completion from that program.

Transfer preparatory program

At least a two-year program that is acceptable for full credit toward a bachelor's degree and qualifies a student for admission into the third year of a bachelor's degree program.

Excluded from Cohort

A school may exclude from the cohort students who

- have left school to serve in the armed forces,
- have left school to serve on official church missions,
- have left school to serve with a foreign aid service of the federal government, such as the Peace Corps,
- are deceased, and
- have become totally and permanently disabled.

Transfer-out Rate

The following formula is used to calculate a transfer-out rate for the general student body cohort:

$$\frac{\text{Number of students in cohort who transferred out of their program within 150\% of normal time for completion}}{\text{Number of students in cohort (minus permitted exclusions)}}$$

Definition of a Transfer-out Student

A student is counted as a transfer-out student if, within 150 percent of the normal time for completion of their program, the student has transferred out of the program and enrolled in any program of another eligible institution for which the prior program provides substantial preparation. A school is required to report only on those students that the school knows have transferred to another school. A school must document that the student actually transferred.

Excluded from Cohort

As in the calculation of its completion and graduation rate, a school may exclude from the general student body cohort students who

- have left school to serve in the armed forces,
- have left school to serve on official church missions,
- have left school to serve with a foreign aid service of the federal government, such as the Peace Corps,
- are deceased, and
- have become totally and permanently disabled.

Step 3 - Disclosing the rates

The information on completion, graduation rates and if applicable transfer out rates must be disclosed by the July 1 immediately following the expiration of 150% of normal time for the group of students on which the school bases its completion and transfer-out rate calculation.

Schools must disseminate the information on completion or graduation and if applicable transfer-out rates to enrolled and prospective students upon request, through appropriate publications, mailings, or electronic media (for example, school catalogs or admissions literature). Schools are strongly encouraged to provide this information to other interested parties, such as guidance counselors, upon request.

EXAMPLE-Determination of [illegible]npletion or Graduation and Transfer-out Rates for the General Student Body

Step 1 - Determining the Cohort

Tower of London College (TLC) has both two-year and four-year degree programs. It operates on a semester basis, so it used a fall cohort.

During its fall semester, TLC had enrolled 1,000 full-time first year freshmen in degree programs. It tagged those students as its 1996 cohort.

Step 2 - Calculating the rates

One hundred and fifty percent of normal time for completion of the two-year program elapsed on August 31, 1999. In September of 2002 (after the 150% of normal time for completion of the four-year program elapsed), TLC searched its records to see how many of the 1,000 students in the cohort had completed a two-year degree as of August 31, 1999. It found that 250 students had completed such a degree. It noted both the number and identity of those students. TLC noted the identity of the students so that it would be able to determine if any of the 250 students also obtained a four-year degree and must be treated as duplicates (see below).

It also found that 35 students from the cohort received a two-year degree between July 1, 1999 and August 31, 2002. TLC was unable to count these students as completors for Student Right-to-Know purposes, as they had completed the program after the elapse of 150% of normal time for completion; however, TLC chose to use this data as supplemental information.

Since TLC's mission includes substantial preparation for its students to enroll in another eligible institution, it also determined the number of transfer-out students in the two-year program by ascertaining the number of students in the cohort for which it had documents showing that the student had transferred to, and begun classes at, another school. It found that it had documentation on 50 such students.

One hundred and fifty percent of normal time for completion of the four-year program elapsed on August 31, 2002. In September of 2002, TLC determined how many of the 1,000 students had received a four-year degree as of August 31, 2002. It found that 450 students had done so.

Because TLC had identified the completors of the two-year program, it was able to determine that 10 of the students it had counted as 2-year completors had also received a four-year degree. TLC is not permitted to count these students as completors twice, so it deducted the number from the number of two-year degree program completors (it could also have deducted them from the number of four-year completors had it so chosen).

Example Continued

TLC surveyed its records to determine the number of students from the cohort in the four-year program that it could document as having transferred as of August 31, 2002. It found 65 students had done so.

To determine if any of the students could be excluded from the cohort, TLC searched its records for documentation that showed that a total of 15 students in the original cohort had left the institution for the express purpose of joining a church mission, the armed forces, or a foreign aid program sponsored by the federal government, or had died or become totally and permanently disabled.

TLC calculated its completion rate and transfer-out rate as follows:

450 four-year program completors + (250 two-year program completors - 10 duplicates)

1,000 students in cohort - 15 permitted exclusions

Completion rate = 70%

65 four-year program transfers + 50 two-year transfers

1,000 students in cohort - 15 permitted exclusions

Transfer-out rate = 11.6%

Step 3 - Disclosing the rates

On July 1, 2003, (the July 1 following the expiration of 150 percent of normal time for the entire cohort) TLC published its completion rate and its transfer-out rate for the students who entered in the fall of 1996.

TLC decided to provide separate, supplemental information regarding the completion and retention rates of its part-time students because it has a large part-time student population. It also provided separate, supplemental information on the number of students who completed the two-year program after four years and after five years. It could have also provided separate, supplemental information on students who transferred into the school from another school had it so wished.

Cite:
34 CFR 668.48

Reporting Information on Completion or Graduation Rates for Student Athletes

Schools that participate in an SFA Program and offer athletically related student aid must provide information on completion or graduation rates, transfer-out rates if applicable, and other statistics for students who receive athletically related student aid to potential student athletes, and to their parents[1], high school coach, and guidance counselors.

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[1] In cases of separation or divorce when it may be difficult to locate both parents, the provision of the required information to the parent who acts as guardian of the student is acceptable.

The definition of athletically related student aid used here is the same definition that is used for the EADA disclosure requirements (see page 2-194). The definitions of: certificate- or degree-seeking student, first-time undergraduate student, undergraduate students and normal time are the same as those used for the calculation of completion or graduation and transfer-out rates for a school's general student body cohort (discussed above).

Step 1 - Determining the cohort

A school must determine the cohort as described beginning on page 2-182.

Step 2 - Calculating the rates for completion or graduation for student athletes

Schools that provide athletically related student aid must report three completion rates and three transfer-out rates:

- a completion or graduation rate and, if applicable, transfer-out rate for the general student body (see page 2-184),
- a completion or graduation rate and, if applicable, transfer-out rate for the members of the cohort who received athletically related student aid (this rate is calculated in the same manner as the rates for the general student body, but must be broken down by race and gender within each sport), and
- the average completion or graduation rate and, if applicable, average transfer-out rate for the four most recent completing classes of the cohort categorized by race and gender for the general student population, and for race and gender within each sport. (Until the year 2000, a school may not have four years of data. In this case, the school must report an average completion rate for all the years for which it has data.)

Information that is required to be reported by sport must be broken down into the following categories:

- Basketball,
- Football,
- Baseball,
- Cross-country and track combined, and
- All other sports combined.

In addition to the completion rates and transfer-out rates, schools must report

- the number of students, categorized by race and gender, who attended the school during the year prior to the submission of the report, and

- the number of those attendees who received athletically related student aid, categorized by race and gender.

As in the calculation of completion rates and transfer-out rates for the general student body, a school may exclude from the cohort students who

- have left school to serve in the Armed Forces,
- have left school to serve on official church missions,
- have left school to serve with a foreign aid service of the federal government, such as the Peace Corps, and
- are deceased, or totally and permanently disabled.

Step 3 - Disclosing the rates for student athletes

The report must be completed and submitted to the Department by the GRS deadline. A school must also provide the report to each prospective student athlete and his or her parents, coaches, and counselor when an offer of athletically related student aid is made to the prospective student.

Schools are not required to provide completion rate information for students who enter before the 1996-97 academic year. However, if a school has data on students entering prior to the 1996-97 academic year (as the result of NCAA requirements, for example) the school should report these data in the four-year averages.

Schools that are not yet reporting completion or graduation rate or, if applicable, transfer-out rates because they do not have the necessary data must still disclose the additional data regarding the number of students who attended the previous year, categorized by race and gender, and the number who attended the previous year and who received athletically related student aid, categorized by race and gender within each sport.

There is a *de minimus* exception to the disclosure requirements for the completion or graduation rates or, if applicable, transfer-out rates of student athletes that allows schools not to disclose those rates for categories that include five or fewer students.

Supplemental Information

Schools may provide additional information to place their completion or transfer-out rates for both the general student body and those related to athletically related student aid in context. For example, a small school's completion rate may vary greatly from year to year because the school's calculations use a very small cohort. The school may wish to provide prior years data and an explanation of factors affecting their completion rate.

EQUITY IN ATHLETICS

Equity in Athletics Cite
Sec. 485(g)
34 CFR 668.47

Regulations published November 29, 1995 implemented the provision of the Improving America's Schools Act of 1994 titled the Equity in Athletics Disclosure Act (EADA). The EADA is designed to make prospective students aware of the commitments of a school to providing equitable athletic opportunities for its men and women students.

The Higher Education Amendments of 1992 added language to the PPA concerning additional administrative requirements for institutions offering athletically related student aid. The Amendments of 1998 moved these provisions into the section of the law that addresses Equity in Athletics. These requirements now fall under the reporting requirements of the EADA.

Any coeducational institution of higher education that participates in an SFA Program and has an intercollegiate athletic program must prepare an annual EADA report. The report contains participation rates, financial support, and other information on men's and women's intercollegiate athletic programs. It is referred to as "Report on Athletic Program Participation Rates and Financial Support Data (34 CFR 668.47)".

Disclosure of the Report

The EADA requires schools to make this report available upon request to students, potential students, and the public. A school must make the report available to students, prospective students, and the public in easily accessible places. For example, a school may make copies of the report available in intercollegiate athletic offices, admissions offices, libraries, or by providing a copy to every student in his or her electronic mailbox.

In addition, a school must provide the report promptly to anyone who requests the information. For example, a school may not refuse to provide a copy of the report to the news media, and the school may not require an individual requesting the information to come to the school to view the report.

A school must inform all students and prospective students of their right to request the information. For example, the school may publish a notice at least once a year in a school publication, the school catalogue, registration materials, or relevant intercollegiate athletic department publication distributed to all students.

A school may not charge a fee to students, potential students, parents or coaches who ask for the information; however, schools are not prohibited from charging the general public a fee to cover copying expenses only.

Schools were required to compile and make available its first report by October 1, 1996. Each subsequent report must be compiled and made available by October 15 each year thereafter.

To comply with the emerging requirements to communicate electronically with the public whenever possible, the Department will collect the EADA data through the World Wide Web. Information on the collection of this data will be available on the Department's website at: http://www.ed.gov/offices/OPE/News/.

The Amendments of 1998 require schools to submit their Equity in Athletics reports to the Department annually within 15 days of making available to students, prospective students and the public.

The Department must submit a report to Congress by April 1, 2000, that summarizes the information reported by schools and identifies trends in the information, aggregates the information by divisions of the NCAA, and contains information on each individual school. In addition, the Department must ensure that the individual school reports and the report to Congress are made available to the public within a reasonable period of time.

Finally, the Department must notify all secondary schools in all states regarding the availability of information in the report to Congress and of the individual school reports and how such information may be accessed.

NEW

Contents of the Equity in Athletics/EADA Report

A school must first designate its reporting year. A reporting year may be any consecutive 12-month period of time. For its designated reporting year, a school must report

- the number of male and female full-time undergraduate students that attended the school (undergraduate students are those who are consistently designated as such by the school),
- the total amount of money spent on athletically-related student aid (including the value of waivers of educational expenses aggregately) for: 1) men's teams and 2) women's teams,
- the ratio of athletically-related student aid awarded to male athletes to athletically-related student aid awarded to female athletes (see the definition of athletically related student aid on page 2-194),
- the expenses incurred by the school for:

1) total expenses for all sports,
2) football,
3) men's basketball,
4) women's basketball,
5) all other men's sports except football and basketball, and
6) all other women's sports except basketball.

Expenses not attributable to a particular sport, such as general and administrative overhead, must be included only in #1 above.

- the total amount of recruiting expenses aggregately for: 1) all men's teams and 2) all women's teams,

- the total annual revenues for: 1) all sports combined, 2) all men's teams, 3) all women's teams, 4) football, 5) men's basketball, 6) women's basketball, 7) all men's sports other than football and basketball, and 8) all women's sports other than basketball.

A school may also report by individual teams these revenues:

- the average annual institutional salary of the non-volunteer head coaches for all offered sports of 1) men's teams and 2) women's teams. This must include the number of persons and full-time equivalent positions used to calculate each average.[2]

- the average annual institutional salary of the non-volunteer assistant coaches for all offered sports of 1) men's teams and 2) women's teams. This must include the number of persons and full-time equivalent positions used to calculate each average.

- a listing of the varsity teams that competed in intercollegiate athletic competition and for each team, the following data:
    - Δ total number of participants as of the day of the first scheduled contest of the reporting year for the team, the number of participants who participated on more than one varsity team, and the number of other varsity teams on which they participated,
    - Δ total operating expenses (expenditures on lodging and meals, transportation, officials, uniforms, and equipment) attributable to the team,[3]
    - Δ gender of the head coach (including any graduate assistant or volunteer who served as head coach) and whether he or she was assigned on a full-time or part-time basis, if assigned on a part-time basis, whether he or she was a full-time or part-time employee of the school,
    - Δ number of male assistant coaches (including any graduate assistants or volunteers who served as assistant coaches) and whether each was assigned on a full-time or part-time basis, of those assigned on a part-time basis, the number who were full-time and part-time employees of the school,
    - Δ number of female assistant coaches (including any graduate assistants or volunteers who served as assistant coaches) and whether each was assigned on a full-time or part-time basis, of those assigned on a part-time basis, the number who were full-time and part-time employees of the school, and

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[2] If a head coach had responsibility for more than one team and your school does not allocate that coach's salary by team, you must divide the salary by the number of teams for which the coach had responsibility and allocate the salary among the teams on a basis consistent with the coach's responsibilities for the different teams.

[3] A school also may report those expenses on a per capita basis for each team and may report combined expenditures attributable to closely related teams, such as track and field or swimming and diving. Those combinations must be reported separately for men's and women's teams.

Δ The unduplicated head count of the individuals who were listed as participants on at least one varsity team, by gender.

Definitions

Recruiting expenses are all expenses schools incur for recruiting activities including, but not limited to, expenditures for transportation, lodging, and meals for both recruits and institutional personnel engaged in recruiting, all expenditures for on-site visits, and all other expenses related to recruiting.

Institutional salary is all wages and bonuses a school pays a coach as compensation attributable to coaching.

In addition to teams that are designated as *varsity* by the school or an athletic association, varsity teams include any team that primarily competes against other teams that are designated as varsity.

Participants on varsity teams include not only those athletes who take part in a scheduled contest, but also any student who practices with the team and receives coaching as of the day of the first scheduled intercollegiate contest of the designated reporting year. This includes junior varsity team and freshmen team players if they are part of the overall varsity program. Schools should also include all students who receive athletically related student aid, including redshirts, injured student athletes, and fifth-year team members who have already received a bachelor's degree.

Operating expenses are expenditures on lodging and meals, transportation, officials, uniforms, and equipment.

Athletically-related student aid is any scholarship, grant, or other form of financial assistance offered by the school, the terms of which require the recipient to participate in a program of intercollegiate athletics at the school in order to be eligible to receive such assistance.

LOAN COUNSELING

Before a Federal Perkins, FFEL, or Federal Direct Loan borrower takes out a loan, the school must counsel that borrower, individually or in a group with other borrowers. The school must give the borrower general information on the average anticipated monthly repayments on the loan, available repayment options, and advice on debt management planning, to facilitate repayment and deferment/cancellation provisions, if applicable, and other terms and conditions. This loan counseling must also be provided before the borrower completes his or her course of study, or otherwise leaves the school. For a complete discussion of loan counseling requirements, please see *Volume 5 — Perkins*, and *Volume 8 — FFEL/DL.*

DRUG AND ALCOHOL ABUSE PREVENTION INFORMATION

Schools that participate in the campus-based programs must provide information under the Drug-Free Workplace Act of 1988 (Public Law 101-690), including a notice to its employees of unlawful activities and the actions the school will take against an employee who violates these prohibitions. In addition, the Drug-Free Schools and Communities Act (Public Law 101-226) requires schools that participate in any SFA Program to provide information to its students, faculty, and employees to prevent drug and alcohol abuse.

Prospective Student
Individuals who have contacted the school to inquire about enrolling at the school or who have been contacted directly by the school or indirectly through general advertising about enrolling at the school.

Information to be Included in Drug Prevention Materials

A school must provide the following in its materials:

- standards of conduct that clearly prohibit, at a minimum, the unlawful possession, use, or distribution of drugs and alcohol by students and employees on the school's property, or as a part of the school's activities;
- a description of the applicable legal sanctions under local, state, and federal law for unlawful possession, use, or distribution of illicit drugs and alcohol;
- a description of any drug and alcohol counseling, treatment, or rehabilitation programs available to students and employees;
- a description of the health risks associated with the use of illicit drugs and alcohol; and
- a clear statement that the school will impose sanctions on students and employees (consistent with local, state, and federal, law) and a description of these sanctions, up to and including expulsion or termination of employment, and referral for prosecution of the standards of conduct.

The Appendices and Comments and Responses sections of the August 16, 1990 regulations provide additional guidance and information for schools to use in developing these materials.

Distribution of Materials to All Students and Employees

The school may include this information in publications such as student or employee handbooks, provided that these publications are distributed to each student and employee. Merely making drug prevention materials available to those who wish to take them is not sufficient. The school must use a method that will reach every student and employee, such as the method used to distribute grade reports or paychecks. The school must distribute these materials annually. If new students enroll or new employees are hired after the initial distribution for the year, the school must make sure that they also receive the materials. (For more information on anti-drug abuse requirements, see Chapter 2.)

MISREPRESENTATION

The General Provisions regulations permit the Department to fine a school, or limit, suspend, or terminate the participation of any school that substantially misrepresents the nature of its educational program, its financial charges, or the employability of its graduates.

Definition of Misrepresentation

Misrepresentation is any false, erroneous or misleading statement made to a student or prospective student, to the family of an enrolled or prospective student, or to the Department. This includes disseminating testimonials and endorsements given under duress.

Substantial Misrepresentation is any misrepresentation on which the person to whom it was made could reasonably be expected to rely, or has reasonably relied, to that person's detriment.

Misrepresentation of the educational program includes false or misleading statements about the school's accreditation, the school's size, location, facilities, or equipment. Misrepresentation of financial charges includes false or misleading statements about scholarships provided for the purpose of paying school charges. To be considered a scholarship, it must actually be used to reduce tuition charges made known to the student before the scholarship was offered to the student. (The tuition charges must be charges that are applied to all students not receiving a scholarship.) It is also considered misrepresentation if the school gives false or misleading information as to whether a particular charge is a customary charge for that course at the school.

Misrepresentation of the employability of the school's graduates includes any false or misleading statements

- that the school is connected with any organization or is an employment agency or other agency providing authorized training leading directly to employment,

- that the school maintains a placement service for graduates or will otherwise secure or assist graduates in securing a job, unless it provides the student with a clear and accurate description of the extent and nature of the service or assistance, or

- concerning government job market statistics in relation to the potential placement of its graduates.

The regulatory provisions concerning misrepresentation are given in detail below.

Nature of Educational Program Cite
34 CFR 668.72

Nature of Educational Program

Misrepresentation by an institution of the nature of its educational program includes, but is not limited to, false, erroneous or misleading statements concerning

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- The particular type(s), specific source(s), nature and extent of its accreditation;

- Whether a student may transfer course credits earned at the institution to any other institution;

- Whether successful completion of a course of instruction qualifies a student for: acceptance into a labor union or similar organization; or receipt of a local, state, or federal license or a nongovernment certification required as a precondition for employment or to perform certain functions;

- Whether its courses are recommended by vocational counselors, high schools or employment agencies, or by governmental officials for government employment;

- Its size, location, facilities or equipment;

- The availability, frequency and appropriateness of its courses and programs to the employment objectives that it states its programs are designed to meet;

- The nature, age and availability of its training devices or equipment and their appropriateness to the employment objectives that it states its programs and courses are designed to meet;

- The number, availability and qualifications, including the training and experience, of its faculty and other personnel;

- The availability of part-time employment or other forms of financial assistance;

- The nature and availability of any tutorial or specialized instruction, guidance and counseling, or other supplementary assistance it will provide its students before, during or after the completion of a course;

- The nature and extent of any prerequisites established for enrollment in any course; or

- Any matters required to be disclosed to prospective students under 34 CFR 668.44 (institutional information) and 34 CFR 668.47 (campus security information).

Nature of Financial Charges

Misrepresentation by an institution of the nature of its financial charges includes, but is not limited to, false, erroneous or misleading statements concerning

- Offers of scholarships to pay all or part of a course charge, unless a scholarship is actually used to reduce tuition charges

Nature of Financial Charges Cite
34 CFR 668.73

that are applied to all students not receiving a scholarship and are made known to the student in advance; or

- Whether a particular charge is the customary charge at the institution for a course.

Employability of Graduates Cite
34 CFR 668.74

Employability of Graduates

Misrepresentation by an institution regarding the employability of its graduates includes, but is not limited to, false, erroneous or misleading statements

- That the institution is connected with any organization or is an employment agency or other agency providing authorized training leading directly to employment,

- That the institution maintains a placement service for graduates or will otherwise secure or assist its graduates to obtain employment, unless it provides the student with a clear and accurate description of the extent and nature of this service or assistance, or

- Concerning government job market statistics in relation to the potential placement of its graduates.

Campus Security Cite
Sec. 485(f)
34 CFR 668.46

CAMPUS SECURITY

General Information

The Department of Education is committed to assisting schools in providing students with a safe environment in which to learn and to keep parents and students well informed about campus security. To this end Dear President letter ANN-96-5, issued jointly by the Department of Education, the Justice Department, and the Department of Health and Human Services in September 1996, provides suggestions to schools for use in developing and implementing a comprehensive policy to combat violence against women on campus. The letter lists the following web sites as possible resources:

- Department of Justice Violence Against Women Office: www.usdoj.gov/vawo/

- Department of Education World Wide Web site on campus safety: www.ed.gov/offices/ope/ppi/security.html

- Higher Education Center for Alcohol and Other Prevention World Wide Web site: www.edc.org/hec/

The Department continues to be committed to the enforcement of the Campus Security Act of 1990 that requires a school to compile an annual campus security report.

The Amendments of 1998 made several changes to the campus security requirements. General changes include:

- The portion of the law that addresses campus security issues is now called the "Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act."
- The identification of victims or persons accused in the statistics that are included in the campus crime report is prohibited.
- The Department is required to provide technical assistance to a school in complying with these requirements at the request of the school.
- The campus security requirements may not be construed to require the reporting or disclosure of a victim's confidential information.
- The Department must report to Congress any school that the Department determines not to be in compliance with the campus crime reporting requirements.
- The Department must impose a civil penalty up to $25,000 if the Department determines that a school has substantially misrepresented the statistical information required to be reported.
- The Amendments clarify that these provisions do not cause a liability for a school or its employees or establish standard of care.
- Evidence of compliance or noncompliance with the provisions is not admissible as evidence except for actions enforcing these requirements.

The changes resulting from negotiated rule making were published as final regulations on November 1, 1999. They are discussed below.

Distribution of the Campus Crime Report

By October 1 of each year, a school must publish and distribute its annual campus security report.

Cite
34 CFR 668.41(e)

NEW

It must be distributed to all **enrolled students and current employees** directly by publication(s) and mailing(s), including: direct mailing to each individual through the U.S. Postal Service, campus mail or electronic mail.

If the school chooses to fulfill this requirement by posting the crime report on an internet or internet website, a notice must be distributed to each student including:

a. A statement of the report's availability,

b. A list and brief description of the information,

c. The exact electronic address (URL) of the internet or internet website at which the report is posted,

d. A statement saying the school will provide a paper copy upon request.

For **prospective students & prospective employees** the school must provide a notice to each student that includes:

1. A statement of the report's availability,

2. A brief description of the report's contents, and

3. An opportunity to request a copy of the report.
   If the school chooses to fulfill this requirement by posting the crime report on an internet or internet website, the notice described above must also contain:

4. The exact electronic address (URL) at which the report is posted, and

5. A statement that the school will provide a paper copy of the report upon request.

A school must provide its annual campus security report, upon request, to a prospective student or prospective employee.

Cite
34 CFR 668.41(e)(5)

NEW

Schools are now required to submit the statistical section of their Annual Crime Report to the Department on an annual basis. The Department is required to make copies of these statistics available to the public and must submit to Congress a comprehensive report on crime statistics by September 1, 2000.

To comply with the emerging requirements to communicate electronically with the public whenever possible, the survey data will be collected through the Department's Campus Crime and Security Web Site. The use of an electronic format will eliminate mailing and processing paper questionnaires, significantly reduce the reporting burden and improve the timeliness of the data from institutions. This capability is available on the Department's website.

Cite
34 CFR 668.46(a)

NEW

Definition of "Campus"

Requirements regarding the campus security report must be met individually for each separate "campus". The Amendments of 1998 have broken the old general definition of "campus" into three more specific categories: campus, noncampus buildings or property, and public property. The campus crime requirements must now be met for any location that meets one of these three definitions.

Campus includes

- any building or property owned or controlled by a school within the same reasonably contiguous geographic area and used by the school in direct support of or in a manner related to its educational purposes. The final regulations published on November 1, 1999 state that residence halls are now included. And,

- property within the same reasonably contiguous area that is owned by the school but controlled by another person, frequently used by students and supports the school's purposes (such as a food or other retail vendor) (this portion of the definition was added by the Amendments of 1998).

The Amendments define the term *noncampus building or property* to mean

- any building or property owned or controlled by a student organization officially recognized by the school; and

- any building or property (other than a branch campus) owned or controlled by the school, that is NOT within the same reasonable contiguous area, is used in direct support of or in relation to, the school's educational purpose, and is frequently used by the students (this portion was added by the Amendments).

The term *public property* means all public property including thoroughfares, street, sidewalks, and parking facilities that is within the same campus or immediately adjacent to and accessible from the campus. This would not include, for example, highways that are adjacent to the campus, but that are separated from the campus by a fence or other man-made barrier. A school may use a map to visually illustrate the areas included in the definition of its campus.

Timely Warning

In addition to the required annual campus security report, schools are required to provide timely warning to the campus community of any occurrences of the following crimes that are reported to campus security authorities or local police agencies and are considered to represent a continuing threat to students and/or employees. A school is not required to provide timely warning with respect to crimes reported to a pastoral or professional counselor. **Note:** A school must also include statistical and policy information related to these same crimes in its campus security report; see the discussion that begins on page 2-198:

Cite
34 CFR 668.46(e)

NEW

- criminal homicide,

- murder and nonnegligent manslaughter,

- negligent manslaughter,

- forcible and nonforcible sex offenses,
- robbery,
- aggravated assault,
- burglary,
- motor vehicle theft, and
- arson.
- The crimes above by category of prejudice, and any other crime involving bodily injury reported to local police agencies or to a campus security authority that shows evidence of prejudice based on race, gender, religion, sexual orientation, ethnicity or disability. And,
- arrests for, **and** persons referred for campus disciplinary action for liquor law violations, drug law violations, and illegal weapons possession.

Cite
34 CFR 668.46(a)

NEW

Campus Security Authority

A campus security authority is (1) a campus law enforcement unit. (2) Any individual or individuals who have responsibility for campus security but who do not constitute a campus security department, such as an indivual who is responsible for monitoring entrance into school property. (3) an individual or organization specified in a school's campus security statement as the individual or organization to which students and employees should report criminal offenses. (4) an official of a school who has significant responsibility for student and campus activities including, but not limited to, student housing, student discipline, and campus judicial proceedings. The definition of campus security authority should include only individuals working for the school's campus security office or expressly performing a campus security function at the school's request. If an official has significant responsibility for student and campus activities they are a campus security authority. For example, a dean of students who oversees student housing, a student center or student extra-curricular activities, has significant responsibility for student and campus activities. Similarly, a director of athletics, team coach and faculty advisor to a student group also have significant responsibility for student and campus activities. The following employees are excluded from the definition: lay counselors, dormitory rectors, physicians, access monitors, rape crisis counselors, doctoral counselor trainees, campus ombudsmen, clerical staff and teaching faculty.

Professional and pastoral counselors excluded from reporting requirements

Of itself, reporting a statistic is not likely to identify a victim. However, the need to verify the occurence of a crime and the need for additional information about a crime to avoid double counting can lead to the identification of the victim. Subsequently, in order to ensure that victims have access to confidential counseling, professional and pastoral counselors are ***not*** required to report crimes discussed with them in their roles as counselors. Moreover, a school is not required to report statistics relating to crimes that are reported to a pastoral counselor or a professional counselor who is functioning within the scope of his or her license or certification. Other confidential reporting options are encouraged to obtain statistical data without infringing on an individual's expectation of confidentiality.

A *Pastoral counselor* is a person who is associated with a religious order or denomination, is recognized by that religious order or denomination as someone who provides confidential counseling, and is functioning as a pastoral counselor.

A *Professional counselor* is a person whose official responsibilities include providing mental health counseling to members of the school's community and who is functioning within the scope of his or her license or certification.

Institutions must retain records used to create their campus security reports for three years after the due date of the report.

FERPA

The provisions of the Family Educational Rights and Privacy Act (FERPA) do not prohibit a school from complying with the requirements of the campus security regulations. Although information on reported crimes could be included in records that are protected under FERPA, FERPA does not prohibit the disclosure of statistical, non-personally identifiable information. FERPA does not preclude a school's compliance with the timely warning requirement because FERPA recognizes that, in an emergency, information can be released without consent when needed to protect the health and safety of others. In making a timely warning report to the campus community on criminal activity that affects the safety of others, even if the school discloses the identity of an individual, the school has not violated the requirements of FERPA.

Records created and maintained by a campus law enforcement unit are not education records and are not protected from disclosure by FERPA. Records of a school's disciplinary actions or proceedings against a student are not available to the public without the consent of the student or the student's parent (if applicable). However, this law does not prevent a school from releasing records of its law enforcement unit to the public without the consent of the student or the student's parent (if applicable).

Under the law, a school is permitted to disclose the results of disciplinary proceedings to the alleged victim of a crime of violence (as defined in the United States Code). However, disclosure may not be made to the public without the consent of the student or parent (if applicable).

Disciplinary action or proceeding

The investigation, adjudication, or imposition of sanctions by an educational agency or institution with respect to an infraction or violation of the internal rules of conduct applicable to students of the agency or institution.

Law enforcement unit

Any individual, office, department, division, or other component of an educational agency or institution, such as a unit of commissioned police officers or noncommissioned security guards, that is officially authorized or designated by that agency or institution to

- enforce any local, state, or federal law, or refer to appropriate authorities a matter for enforcement of any local, state, or federal law against any individual or organization other than the agency or institution itself, or

- maintain the physical security and safety of the agency or institution.

A school is not relieved of compliance with the reporting requirements of the campus security regulations when the school refers a matter to a disciplinary committee, rather than to the school's law enforcement unit or directly to the local authorities.

Cite
34 CFR 668.46(f)

NEW

Daily Crime Log

The Amendments of 1998 require schools that maintain a campus police or security department to make, keep and maintain daily logs of any crime that occurred within the patrol jurisdiction of the campus police or the campus security department designated by the institution. The logs must be written in a manner that is easily understood. The school must record by date the crime was reported, the nature, date, time, and general location of each crime, and the disposition of the complaint, if known. The logs must be made public, except where prohibited by law or when disclosure would jeopardize the confidentiality of the victim. Schools are required to update logs with new information when available, but no later than 2 business days after the information is received unless the disclosure is prohibited by law or would jeopardize the confidentiality of the victim. The school must disclose any information withheld, once the adverse effect described is no longer likely to occur.

Often time passes between when a crime is committed and when it is discovered, making the date of occurrence unknown or uncertain. In addition, for statistical purposes, the FBI collects crime data based on when crime are reported to the police. Subsequently, an institution should report crime data based on when the crime was reported to compus authorities.

The school must make the crime log for the most recent 60 day period open to public inspection during normal business hours. The school must make any portion of the log older than 60 days available within two business days of a request for public inspection.

A school may withhold information if (and as long as) the release of the information would jeopardize an ongoing criminal investigation or the safety of an individual, cause a suspect to evade detection, or result in the destruction of evidence. A school may withhold only the information that would cause adverse effects.

The Annual Security Report

The annual security report due October 1, must contain the required crime statistics for the three calendar years preceding the year in which the report is disclosed. The crime report due October 1, 2000 must include statistics for 1997, 1998, and 1999 calendar years.

Policies and Procedures for Reporting Crimes

The annual security report provides information regarding campus security policies and campus crime statistics. With limited exceptions, the campus security requirements do not prescribe policies and procedures for schools to follow. Rather, schools are required to make disclosures concerning the policies and procedures implemented by the school. At a minimum, the annual security report must include the following:

Cite
34 CFR 668.46(b)

NEW

1. The required institutional crime statistics described below:

    - Δ criminal homicide:
        - a. murder and nonnegligent manslaughter
        - b. negligent manslaughter
    - Δ sex offenses:
        - a. forcible sex offenses
        - b. nonforcible sex offenses
    - Δ robbery
    - Δ aggravated assault
    - Δ burglary
    - Δ motor vehicle theft
    - Δ arson
    - Δ The crimes above by category of prejudice, and any other crime involving bodily injury reported to local police agencies or to a campus security authority that show evidence of prejudice based on race, gender, religion, sexual orientation, ethnicity or disability
    - Δ arrests for, **and** persons referred for campus disciplinary action for liquor law violations, drug law violations, and illegal weapons possession

The Amendments require schools to report crime statistics by means of separate caegories: (a) on campuses; (b) in or on a noncampus building or property; (c) on public property; and (d) in dormitories or other residential facilities for students on campus.

All schools must compile the required crime statistics in accordance with the definitions used in the Federal Bureau of Investigation's Uniform Crime Reporting (UCR) Hate Crime Data Collection Guidelines and Training Guide for Hate Crime Collection, which is provided in Appendix E of the final regulation published April 29, 1994. For further guidance concerning the application of definitions and classification of crimes a school must use either the UCR Reporting Handbook or the UCR Reporting Handbook: NIBBRS EDITION. Except when determining how to report crimes committed in a multiple offence situation a school must use the UCR Reporting Handbook. Copies of these publications are available from: FBI Communications Unit, 1000 Custer Hollow Road, Clarksburg, WV 26306. (Telephone: 304-625-2823). Schools are not required to participate in the FBI's UCR program.

NEW

A school must record a crime statistic in its annual security report for the calendar year in which the crime was reported to a campus security authority.

The statistics required in the annual security report may not include the identification of the victim or the person accused of committing the crime.

A school must make a reasonable, good faith effort to obtain the required statistics and may rely on the information supplied by a local or State police agency. If the school makes a good faith effort, it is not responsible for the failure of the local State police agency to supply the required statistics.

2. A statement of current campus policies regarding procedures for reporting crimes and other emergencies occurring on campus and the policies for the school's response to these reports, including:

a. policies for making timely reports of the above described crimes to members of the campus community,

b. policies for preparing the annual disclosure of crime statistics, and

c. a list of the titles of each person or organization to whom the criminal offenses described above should be reported for the purpose of making timely warning reports and the annual statistical disclosure. This statement must also describe any institutional policies or procedures that allow voluntary or confidential reports to be made by victims or witnesses which are included in the annual disclosure of crime statistics.

3. a statement of the policies concerning the security of, and access to, all campus facilities, including residences, and security considerations used in the maintenance of campus facilities,

4. a statement of the policies concerning campus law enforcement, including

    a. the enforcement authority of campus security personnel, their working relationship with state and local police and other law enforcement agencies, and whether the security personnel have the authority to arrest individuals, and
    b. policies that encourage accurate and prompt reporting of crimes to campus police and the appropriate police agencies,
    c. describes procedures that encourage pastoral counselors and professional counselors, if and when they deem it appropriate, to inform their clients of any procedures to report crimes on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics.

5. a description of the type and frequency of programs for students and employees on campus security procedures and practices; programs that encourage students and employees to be responsible for their own security and the security of others.

6. a description of institutional crime prevention programs,

7. a statement of the policies concerning the monitoring and recording (through local police agencies) of student criminal activity at off-campus locations of student organizations recognized by the school, including student organizations with off-campus housing facilities (see the definition of a " campus" on page 2-201),

8. the policies concerning the possession, use, and sale of alcoholic beverages including the enforcement of state underage drinking laws.

9. a statement of institutional policies concerning the possession, use, and sale of illegal drugs including the enforcement of state and federal drug laws,

10. a description of the drug and alcohol-abuse education programs available to students and employees, as required under section 120(a) through (d) of the Higher Education Act,

11. a statement of the sexual assault prevention programs available and the procedures to be followed when a sex offense occurs including

    a. a description of educational programs to promote the awareness of rape, acquaintance rape, and other forcible and nonforcible sex offenses,
    b. procedures a student should follow if a sex offense occurs

(who to contact and how to contact them, the importance of preserving evidence for proof of a criminal offense),

c. options for the notification of local law enforcement officials (including on-campus and local police) and a statement that school personnel will assist the student in notifying these authorities, if requested by the student,

d. availability of on- and off-campus counseling, mental health, or other student services for victims of sex offenses,

e. notice to students that the school will change a victim's academic and living situations after the alleged sex offense and of the options for changes, if changes are requested by the victim and are reasonably available,

f. procedures for campus disciplinary actions in cases of an alleged sex offense, including a clear statement that both the accuser and the accused

◊ are entitled to the same opportunities to have others present during a disciplinary proceeding, and

◊ will be informed of the school's final determination any school disciplinary proceeding with respect to the alleged sex offense and any sanction that is imposed against the accused,

◊ sanctions the school may impose following a final determination of a school disciplinary proceeding regarding rape, acquaintance rape, or other forcible or nonforcible sex offenses.

The final regulations published on November 1, 1999 made the following changes to a school's annual security report.

1. The list of crimes that an institution must disclose in its annual security report has changed as follows:

   a. An additional category of manslaughter, broken into two sub-categories: nonnegligent and negligent manslaughter is added to the category of murder. Murder and nonnegligent manslaughter is the willful (nonnegligent) killing of one human being by another. Manslaughter by negilgence is the killing of another person through gross negligence. The new regulations incorporate manslaughter into the regulations by adding nonnegligent manslaughter to the current murder category and adding a new negligent manslaughter category. Collectively the two categories are referred to as "criminal homicide" consistent with the FBI's definitions.

   b.The category of arson is added to the crime disclosure list. Arson is any willful or malicious burning or attempt to burn with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.

2. The period for which liquor-law, drug-law and weapons possession violations must be reported has changed from the most recent year to the most recent three years. In addition,

the school must disclose not only the number of arrests for these crimes but also the unduplicated number of persons who were referred for campus disciplinary action for these activities. Institutions should not include students referred for campus disciplinary action for alcohol, drug, and weapons possession unless those violations were also violations of law. For example, if a student of legal drinking age in the state where the institution is located violates the institution's "dry campus" policy and is referred for disciplinary action, that statistic should not be included in the institution's crime statistics. If a student was both arrested and referred for campus disciplinary action for the same violation, the new regulations require that the institution report the statistic only under arrests.

3. The hate crime disclosure requirement now requires a school to disclose, by category of prejudice, the number of hate crimes among: all the crimes that it is required to report (excluding arrests for and persons referred for campus disciplinary action for liquor-law, drug-law or weapons law violations); and any other crimes involving bodily injury reported to a local police agency or a campus security authority. In addition, schools must use the UCR standard of evidence of prejudice to assist in determining if a hate crime occurred.

4. A school must provide a geographic breakdown for the required crime statistics according to the following categories: (a) On campus, (b) noncampus building or property, (c) public property, and (d) dormitories or other residential facilities for students on campus. The dormitory is a subset of the campus category.

5. Crimes must be reported for the calendar year in which the crime was reported to a campus security authority rather than the calendar year in which the crime occurred.

6. Schools are specifically prohibited from identifying the victim or the alleged perpetrator of the crime in the school's disclosure of its crime statistics.

7. A school must disclose the previous three calendar years' crime statistics for the required statistical disclosures.

8. Schools must begin collecting statistics using the new categories effective for calendar year 1999. A school's 2000 report - which will include statistics for calendar years 1997, 1998 and 1999 - must include statistics for calendar 1999 using the new categories. Schools may continue to report statistics for calendar years 1997 and 1998 using the previously applicable categories, except that a school may use the new categories for those years if the data are available.

9. A school is not required to report statistics related to crimes that are reported to a pastoral counselor or a professional counselor who is functioning within the scope of his or her license or certification.

10. A school may rely on statistical information supplied by local and State police agencies, as long as the school makes a reasonable, good faith effort to obtain these statistics.

11. The school must disclose its annual security report must by October 1 of each year.

12. The definition of a campus security authority is broadened (page 2-202).

13. A school with a campus police or campus security department of any kind must maintain a daily, written crime log of any crime reported to that department that occurred on campus, in or on a noncampus building or property, or on public property. (See page 2-200).

14. Each school must annually submit the statistical section of its security report to the Department of Education. There is no requirement that a school submit statistical information in the crime log to the Department. The school must maintain campus security records to document the information included in its annual security report."

Complaints Against Schools

When a complaint is filed against a school alleging noncompliance with the campus security regulations, the Department will assess the complaint and determine the appropriate response.

Technical assistance to schools in administering the campus security regulations is available from the Department's Customer Support Branch at 1-800-433-7327.

INSTITUTIONAL AND FINANCIAL ASSISTANCE INFORMATION FOR STUDENTS

Who Receives the Information	What They Receive	How it must be provided	When Must it be provided
Currently enrolled students and current employees	The institution's annual campus security report in its entirety (pursuant to 668.46)	Through publications, mailings or electronic media sent directly to individuals. If a school chooses to post its annual security report to a Web site it must send each individual a notice through U.S. mail, campus mail, or directly to an E-mail address that 1. identifies the information required to be disclosed; 2. provides the exact electronic website address; 3. states that, upon request, the individual is entitled to a paper copy; & 4. informs the individual how to request a paper copy.	The institution must prepare and make available its security report annually by October 1.
Currently enrolled students	Notice about the availability of the following – 1. information on financial assistance available to students enrolled in the institution (pursuant to 668.42); 2. information on the institution (pursuant to 668.43); 3. the institution's completion or graduation rate, and, if applicable, its transfer-out rate (pursuant to 668.45); 4. information about students' rights under FERPA (pursuant to 99.7); and 5. information about athletic program participation rates and financial support (EADA) (pursuant to 668.47). The notices must be sufficient detailed to allow students to understand the nature of the disclosures and make an informed decision whether to request the full reports.	A school must provide direct individual notice to each person. A school may provide the required notice through direct mailing to each individual through the U.S. Postal Service, campus mail, or electronically directly to an E-mail address; If the school makes the information available by posting it to their Website, then the notice provided to students must 1. identify the information required to be disclosed; 2. provide the exact electronic website address; 3. state that, upon request the student is entitled to a paper copy; & 4. inform the student how to request a paper copy.	Annually, a school must provide notice to each enrolled student. Immediately, upon request, the institution must provide the full reports. The institution must prepare its completion or graduation rate, and, if applicable, its transfer-out rate report by July 1, immediately following the point in time at which the 150% point for the cohort has elapsed. Institutions should prepare and make available information about athletic program participation rates and financial support (EADA) by October 15. Information on the institution and its financial assistance programs must be current.
The general public	An institution that • participates in any Title IV, HEA program; and • has an intercollegiate athletic program must provide a report on athletic program participation rates and financial support (EADA) (pursuant to 668.47).	Through appropriate publications, mailings or electronic media.	Annually for the preceding year the institution must prepare the report and make it available by October 15.

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INSTITUTIONAL AND FINANCIAL ASSISTANCE INFORMATION FOR STUDENTS (CONTD)

Who Receives the Information	What They Receive	How it must be provided	When Must it be provided
Prospective students	1. Information on financial assistance available to students enrolled in the institution (pursuant to 668.42). 2. Information on the institution (pursuant to 668.43). 3. Information about students' rights under FERPA. 4. Notice about the availability of the institution's annual campus security report (pursuant to 668.46). The notice must include: a. a list of the information in the report; b. brief descriptions of the required disclosures that are sufficient to allow students to understand the nature of the disclosures and make an informed decision whether to request the full report; (Please see the NPRM of 8/10/99 page 43583 for an example.) and c. an opportunity to request a copy. 5. The institution's completion or graduation rate, and, if applicable, its transfer-out rate (pursuant to 668.45). And, 6. Information about athletic program participation rates and financial support (pursuant to 668.47).	Directly to prospective students through appropriate publications, mailings, or electronic media an institution must provide individual notice of the availability of items 1 through 6. Institutions must provide their complete report on completion, graduation and, if applicable transfer rates. Upon request, an institution must provide a copy of its full annual security report to a prospective student. If provided electronically, notices and reports must be sent directly to an E-mail address.	Prior to a prospective students' enrolling or entering into any financial obligation with an institution the institution must provide its report on completion, graduation and transfer rates. Notice about the availability of the other reports should be included in the materials an institution provides to prospective students. Immediately, upon request, the institution must provide its security report on a direct, individual basis.
Prospective student-athletes and their 1. parents, 2. high school coaches, & 3. guidance counselors	An institution that is attended by students receiving athletically-related student aid must produce a report on the completion and graduation rates of student athletes pursuant to 668.48.	The information must be provided directly to the respective parties. It may be provided in writing (on paper) or through electronic mail but **not** simply by posting it to a website. If an institution's completion and graduation rates of student athletes are provided by the NCAA to high school coaches and counselors, the institution is deemed to be in compliance with that portion of this requirement.	The institution must provided the report at the time it makes an offer of athletically related student aid to a prospective student. Annually by July 1, institutions that are attended by students receiving athletically related student aid must produce the report and make it available.

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INSTITUTIONAL AND FINANCIAL ASSISTANCE INFORMATION FOR STUDENTS

Who Receives the Information	**What They Receive**	**How it must be provided**	**When Must it be provided**
Everyone who requests information about employment at the institution.	A notice about the availability of the annual campus security report. The notice must include a list of the information from the institution's annual security report to which employees and potential employees are entitled. The list must include brief descriptions of the required disclosures. The descriptions should be sufficient to allow employees and potential employees to understand the nature of the disclosures and make an informed decision whether to request the full report.	In response to an inquiry about employment, a school must provide direct individual notice to each potential employee. A school may provide the required notice through direct mailing to each individual through the U.S. Postal Service, campus mail, or electronically directly to an E-mail address; If the school makes the information available by posting it to their Website, then the notice provided to students must 1. identify the information required to be disclosed; 2. provide the exact electronic website address; 3. state that, upon request the student is entitled to a paper copy; & 4. inform the student how to request a paper copy.	The institution must prepare its report annually by October 1. Immediately, upon request, the institution must provide the full report.
Faculty, students and employees	Drug and alcohol abuse prevention information pursuant to public law 101-226.	Schools must use a method that ensures the information will reach every student, faculty member and employee.	The institution must provide this information annually. The institution must ensure that students who enroll and employees who are hired after the initial distribution for the year also receive the information.

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Recordkeeping and Disclosure

CHAPTER 8

In this chapter, we discuss the requirements for maintaining and disclosing records for the SFA Programs.

The General Provisions regulations require schools to maintain records related to their participation in the SFA Programs. These records must be made available by the school to representatives of the Department and other specified individuals or organizations in the course of audits, program reviews, investigations, or other authorized reviews.

In addition to the general institutional recordkeeping requirements discussed here, a school must also comply with all applicable program-specific recordkeeping requirements contained in the individual SFA Program regulations.

This chapter also describes disclosure requirements, including a discussion of the Family Educational Rights and Privacy Act (FERPA), which restricts the disclosure of student records to other parties and requires the school to give a student the opportunity to review his or her records.

Recordkeeping Cites
General Education Provisions Act
CFR 668.24

REQUIRED RECORDS

A school must keep comprehensive and accurate program and fiscal records related to its use of SFA Program funds. The importance of maintaining complete and accurate records cannot be overemphasized. Program and fiscal records must demonstrate the school's eligibility for participation in the SFA Programs and show a clear "audit trail" for SFA Program expenditures. Records must be kept to demonstrate proper administration of SFA Program funds. For example, records for each SFA recipient must clearly show that the student was eligible for the funds received, and that the funds were disbursed in accordance with program regulations.

Program Records

A school must establish and maintain on a current basis any application the school submitted for SFA Program funds. A school must also maintain on a current basis program records that document

- the school's eligibility to participate in the SFA Programs,
- the SFA eligibility of the school's programs,
- the school's administration of the SFA Programs,
- the school's financial responsibility,
- information included in any application for SFA Program funds, and
- the school's disbursement and delivery of SFA Program funds.

Program Records a School Must Maintain

The program records that a school must maintain include, but are not limited to

✔ Program Participation Agreement
✔ Accrediting and licensing agency reviews, approvals, and reports
✔ State agency reports
✔ Audit and program review reports
✔ Self-evaluation reports
✔ Other records, as specified in regulation, that pertain to factors of financial responsibility and standards of administrative capability

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Fiscal Records

A school must keep fiscal records to demonstrate its proper use of SFA funds. A school's fiscal records must provide a clear audit trail that shows that funds were received, managed, disbursed, and returned in accordance with federal requirements. Schools are required to account for the receipt and expenditure of all SFA Program funds in accordance with generally acceptable accounting principles.

A school must establish and maintain on a current basis

- financial records that reflect each SFA Program transaction, and
- general ledger control accounts and related subsidiary accounts that identify each SFA Program transaction and separate those transactions from all other institutional financial activity.

Fiscal Records a School Must Maintain

The fiscal records that a school must maintain include, but are not limited to

- ✔ Records of all SFA Program transactions
- ✔ Bank statements for all accounts containing SFA funds
- ✔ Records of student accounts, including each student's institutional charges, cash payments, SFA payments, cash disbursements, refunds, and repayments required for each enrollment period
- ✔ General ledger (control accounts) and related subsidiary ledgers that identify each SFA Program transaction (SFA transactions must be separate from school's other financial transactions)
- ✔ Federal Work-Study payroll records
- ✔ Records that support data appearing on required reports, such as
  - Pell Grant Statements of Accounts
  - ED Payment Mangement System cash requests and quarterly or monthly reports
  - SFA Program reconciliation reports
  - Audit reports and school responses
  - State grant and scholarship award rosters and reports
  - Accrediting and licensing agency reports

General Records

In addition, a school must maintain the following records that pertain to the general administration of SFA Program funds.

General Records a School Must Maintain

A school must maintain records for each SFA recipient that include, but are not limited to

- ✔ The Student Aid Report (SAR) or Institutional Student Information Record (ISIR) used to determine a student's eligibility for SFA funds
- ✔ Application data submitted to the Department, lender, or guaranty agency by the school on behalf of the student or parent
- ✔ Documentation of each student's or parent borrower's eligibility for SFA Program funds (e.g., records that demonstrate that the student has a high school diploma, GED, or the ability to benefit)
- ✔ Documentation of all professional judgement decisions
- ✔ Financial aid history information for transfer students
- ✔ Cost of attendance information
- ✔ Documentation of a student's satisfactory academic progress
- ✔ Documentation of a student's program of study and courses in which enrolled
- ✔ Data used to establish student's admission, enrollment status, and period of enrollment
- ✔ Required student certification statements and supporting documentation
- ✔ Documents used to verify applicant data
- ✔ Documentation relating to each student's or parent borrower's receipt of SFA Program funds, including but not limited to
  - The amount of the grant, loan, or FWS award; its payment period; its loan period, if appropriate; and the calculations used to determine the amount of grant, loan, or FWS award,
  - The date and amount of each disbursement or delivery of grant or loan funds, and the date and amount of each payment of FWS wages,
  - The amount, date, and basis of the school's calculation of any refunds or overpayments due to or on behalf of the student, and
  - The payment of any refund or overpayment to the SFA Program fund, a lender, or the Department, as appropriate.
- ✔ Documentation of and information collected at any initial or exit loan counseling required by applicable program regulations

In addition, a school must maintain records that include, but are not limited to

- ✔ Reports and forms used by the institution in its participation in an SFA Program, and any records needed to verify data that appear in those reports and forms
- ✔ Documentation supporting the school's calculation of its completion or graduation rates, and transfer-out rates (see Section 8)

In addition

- participants in the Perkins Loan Program must follow procedures in Section 674.19 for documentation of a repayment history for each borrower for that program (see *Volume 5 — Perkins*),
- participants in the FWS Program must follow procedures established in Section 675.19 for documentation of work, earnings, and payroll transactions for that program (see *Volume 6 — Federal Work Study*), and
- participants in the FFEL Program must follow procedures established in Section 682.610 for documentation of additional loan record requirements for that program (see *Volume 8 — FFEL/DL*).

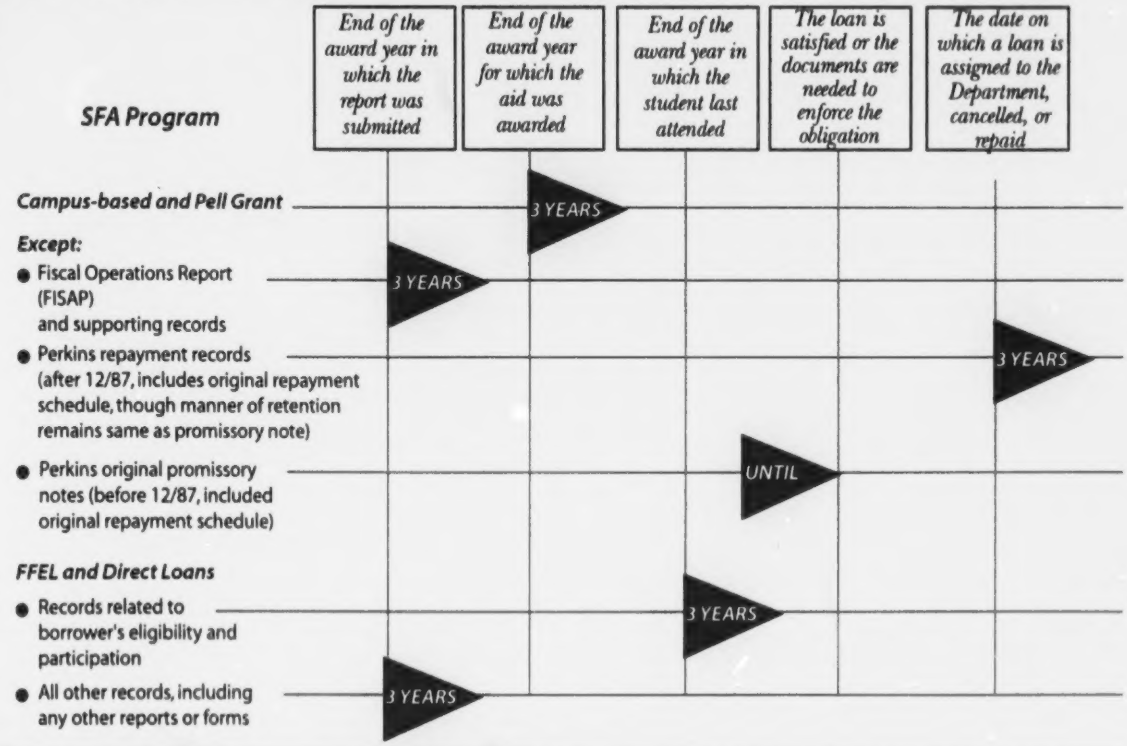
RECORD RETENTION PERIODS

Schools must retain all required records for a minimum of three years. However, the starting point for the three-year period is not the same for all records. For example, some campus-based program records must be kept for three years from the end of the award year in which the funds were awarded and disbursed. However, schools must keep the Fiscal Operations Report (FISAP) and any records necessary to support its data for three years from the end of the award year in which the FISAP is submitted. The most current FISAP, which will contain 1998-99 data, must be submitted during the 1999-2000 award year, will request 2000-2001 funds, and has a submission date of October 1999. Because this FISAP will be submitted during the 1999-2000 award year, records must be kept until at least June 30, 2003, three years from the last day of the 1999-2000 award year.

There are additional exceptions to the general record retention periods for repayment records for Perkins Loans and records related to a FFEL or Direct Loan borrower's eligibility and participation in those programs.

The chart on the next page illustrates the required minimum retention periods for records under the various SFA Programs.

Minimum Record Retention Periods



SFA Program	*End of the award year in which the report was submitted*	*End of the award year for which the aid was awarded*	*End of the award year in which the student last attended*	*The loan is satisfied or the documents are needed to enforce the obligation*	*The date on which a loan is assigned to the Department, cancelled, or repaid*
Campus-based and Pell Grant		3 YEARS			
Except:					
● Fiscal Operations Report (FISAP) and supporting records	3 YEARS				
● Perkins repayment records (after 12/87, includes original repayment schedule, though manner of retention remains same as promissory note)					3 YEARS
● Perkins original promissory notes (before 12/87, included original repayment schedule)				UNTIL	
FFEL and Direct Loans					
● Records related to borrower's eligibility and participation			3 YEARS		
● All other records, including any other reports or forms	3 YEARS				

Different retention periods are necessary to ensure enforcement and repayment of SFA loans. Perkins Loan repayment records, including cancellation and deferment records, must be kept for three years from the date that the loan was assigned to the Department, cancelled, or repaid. Perkins original promissory notes and original repayment schedules must be kept until the loan is satisfied or needed to enforce the obligation (for more information, see *Volume 5 — Perkins*). Records relating to a borrower's eligibility and participation in the FFEL and Direct Loan programs must be kept for three years from the last day of the award year in which the student last attended the school.

A school may retain records longer than the minimum period required. If the school does maintain the records for a longer period of time and receives a financial aid transcript request (see *Volume 1 — Student Eligibility*), the school is required to provide any information requested from records the school still maintains.

A school may be required to retain records for longer than three years if the records are involved in any loan, claim, or expenditure questioned in any SFA program review, audit, investigation, or other review (see Chapter 11 for more information on program reviews and audits). If the three-year retention period expires before the issue in question is resolved, the school must continue to retain all records until resolution is reached.

RECORD MAINTENANCE

Acceptable Formats

A school must maintain all required records in a systematically organized manner. Unless a specific format is required, a school may keep required records in

- hard copy
- microform
- computer file
- optical disk
- CD-ROM
- other media formats

Regardless of the format used to keep a record, all record information (except for the Institutional Student Information Record [ISIR]) must be retrievable in a coherent hard copy format (for example, an easily understandable print out of a computer file) or in a media format acceptable to the Department. The requirement providing for other media formats acceptable to the Department allows for the use of new technology as it is developed. The Department will notify schools of acceptable media formats; schools should not apply for approval of a media format.

Any document that contains a signature, seal, certification, or any other image or mark required to validate the authenticity of its information must be maintained in its original hard copy or in an imaged media format. This includes tax returns, verification statements, Student Aid Reports (SARs) used to determine eligibility and any other document when a signature seal, etc., contained on it is necessary for the document to be used for the purposes for which it is being retained.

A school may maintain a record in an imaged media format only if the format is capable of reproducing an accurate, legible, and complete copy of the original document. When printed, the copy must be approximately the same size as the original document.

Special Requirements for SARs and ISIRs

Special maintenance and availability requirements apply for Student Aid Reports (SARs) and ISIRs used to determine eligibility because it is essential that these basic eligibility records be available in a consistent, comprehensive, and verifiable format for program review and audit purposes. Because the SAR is a hard copy document, it must be maintained and available in its original hard copy format or in an imaged media format. The ISIR, an electronic record, must be maintained and available in its original format, i.e., as it was supplied by the Department to the school on a magnetic tape or cartridge, or as it was archived using EDExpress software supplied to the school. A school that uses EDExpress has the ability to maintain the ISIR data that it has maintained during the applicable award year by archiving the data to a disk or other computer format. A school that receives ISIRs on magnetic tapes or cartridges may make a copy of the file received from the Department.

A school is not required to maintain all required records in its financial aid office. For example, it may be more appropriate for a school to maintain some records in the business office, the admissions office, or the office of the registrar. The responsible administrator in the office maintaining the records should be aware of all applicable record retention requirements.

If a school closes, stops providing educational programs, is terminated or suspended from the SFA Programs, or undergoes a change in ownership that results in a change of control, it must provide for the retention of required records. It must also provide for access to those records for inspection and copying by the Department. For a school that participates in the FFEL Program, the school must also provide access for the appropriate guaranty agency.

EXAMINATION OF RECORDS

Location

A school must make its records available to the Department at an institutional location designated by the Department. These records must be readily available for review, including any records of transactions between a school and the financial institution where the school deposits any SFA funds.

Cooperation with Agency Representatives

A school that participates in any SFA Program, and the school's third party servicers, if any, must cooperate with the agencies and individuals involved in conducting any audit, program review, investigation, or other review authorized by law. This cooperation must be extended to the following individuals and their authorized representatives: an independent auditor, the Secretary of the Department, the Department's Inspector General, the Comptroller General of the United States. A school must also provide this cooperation to any guaranty agency in whose program the school participates, and the school's accrediting agency.

Timely Access

A school must cooperate by providing timely access to requested records, pertinent books, documents, papers, or computer programs, for examination and copying by any of the agents listed above. The records to which timely access must be provided include, but are not limited to, computerized records and records reflecting transactions with any financial institution with which the school or servicer deposits or has deposited any SFA Program funds.

Reasonable Access to Personnel

A school must also provide reasonable access to all personnel associated with the school's or servicer's administration of the SFA Programs so that any of the agents listed above may obtain relevant information.

A school or servicer has not provided reasonable access to personnel if the school or servicer

- refuses to allow those personnel to supply all relevant information,
- permits interviews with those personnel only if the school's or servicer's management is present, or
- permits interviews with those personnel only if the interviews are tape recorded by the school or servicer.

SFA Recipient Information

If requested by the Department, a school or servicer must provide promptly any information the school or servicer has respecting the last known address, full name, telephone number, enrollment information, employer, and employer address of a recipient of SFA Program funds who attends or attended the school. A school must also provide this information, upon request, to a lender or guaranty agency in the case of a borrower under the FFEL Program.

DISCLOSING STUDENT INFORMATION

FERPA

To protect the privacy of students and families, federal law sets certain conditions on the disclosure of personal information from records kept by schools that participate in the SFA Programs. The relevant law is the Family Educational Rights and Privacy Act of 1974 (FERPA); do not confuse FERPA with the Privacy Act of 1974 that governs the records kept by government agencies, including the application records in the federal processing system.

FERPA restrictions on disclosure of records that are created and maintained by campus law enforcement units (for law enforcement purposes) are discussed in Chapter 7.

Department regulations set limits on the disclosure of personally identifiable information from school records, define the responsibilities of the school, and define the rights of the student in reviewing the records and requesting a change to the records. A school must give the student the opportunity to inspect and review his or her educational records, but does not have to provide copies of the records unless the requirement that the student come to the school to inspect and review the records would effectively deny access to the student. While the school may not charge a fee for retrieving the records, it may charge a reasonable fee for providing copies of the records, provided that the fee would not prevent access to the records.

The graphic below notes several important elements of the school's responsibilities and the rights of the student or parent. The regulations apply to all education records the school keeps, including admissions records (only if the student was admitted) and academic records as well as any financial aid records pertaining to the student. Therefore, the financial aid office is not usually the office that develops the school's FERPA policy or the notification to students and parents, although it may have some input.

A School is Required to —

- ***Develop a written policy*** listing the types and locations of education records maintained by the school, and stating the procedures for parents and students to review the records.
- ***Notify parents and students*** of their rights with respect to educational records.
- ***Document the student's file*** each time personally identifiable information is disclosed to persons other than the student.

A Student has the Right to —

- ***Inspect and review*** education records pertaining to the student.
- ***Request an amendment*** to the student's records.
- ***Request a hearing*** (if the request for an amendment is denied) to challenge the contents of the education records, on the grounds that the records are inaccurate, misleading, or violate the rights of the student.

The term *educational record* does not include records that are kept in the sole possession of the maker of the record (often called sole possession records). Sole possession records are

1. used as a memory or reference tool;
2. not accessible or revealed to any other person except a temporary substitute for the maker of the record; and
3. typically maintained by the school official unbeknownst to other individuals.

Records that contain information taken directly from a student or that are used to make decisions about the student are not sole possession records.

The FERPA regulations also establish rules governing the disclosure of student information to parties other than the student. The regulation lists 13 conditions under which "personally identifiable information" from a student's education record may be disclosed without the student's prior written consent. Several of these conditions are of particular interest to the financial aid office:

- Disclosure may be made to authorized representatives of the U.S. Department of Education, the Office of Inspector General, or state and local education authorities. These officials may have access to education records as a part of an audit or program review, or to ensure compliance with SFA Program requirements.

Representatives of the Department include research firms that are under contract with the Department to conduct studies of financial aid procedures, using student information provided by the schools selected for the study. The term also includes the SFAP Public Inquiry Contractor (PIC).

- Disclosure may be made if it is in connection with financial aid that the student has received or applied for. For instance, the school may receive a request from the Immigration and Naturalization Service (INS) or the Federal Bureau of Investigation (FBI) for access to a student's records. Such a request may only be granted if the student information is needed to determine the amount of the aid, the conditions for the aid, the student's eligibility for the aid, or to enforce the terms or conditions of the aid.

- Disclosure may be made to either parent of a dependent student (regardless of which parent claims the student as a dependent) if the student is a dependent as defined by the Internal Revenue Service (IRS). Note that the IRS definition of a dependent is quite different from that of a dependent student for SFA purposes. For IRS purposes, a student is a dependent of the parent(s) if the student receives more than half of his or her support from the parent(s).

- Disclosure may be made to organizations that are conducting studies concerning the administration of student aid programs on behalf of educational agencies or institutions.

Disclosure Requests for Information

Schools are required to keep a record of each request for access and each disclosure of personally identifiable student information. The record must identify the parties who requested the information and their legitimate interest in the information. This record must be maintained in the student's file as long as the educational records themselves are kept.

Sample Disclosure Statement

If student records are requested by Department reviewers in the course of a program review, for instance, the school must document in each student's file that the student's records were disclosed to representatives of the Department. The easiest way for the school to do this is to photocopy a statement to this effect and include it in each student's file. A statement such as the following would be appropriate for a review of the SFA Programs conducted by a Department regional office: "These financial aid records were disclosed to representatives of the U.S. Department of Education, Region __, on (Month/Day/Year) to determine compliance with financial aid requirements, under 34 CFR Part 99.31(a)(4)."

Redisclosure to Other Authorized Parties

When student information has been disclosed to one of the parties listed above, that party may redisclose that information to additional parties who are authorized to receive the information without prior written consent, provided that such redisclosure is included in the statement in the student's file. For instance, if a program review finds evidence that a student may have fraudulently obtained aid, this information may be redisclosed to the Department's Office of Inspector General (OIG) by the regional office. (Thus the OIG would not have to make a separate request to the school for the same information.) When redisclosure is anticipated, the additional parties to whom the information will be disclosed must be included in the record of the original disclosure. For instance, to continue the example for an SFA program review, the following statement might be added: "Case Management and Oversight may make further disclosures of this information to the Department's Office of Inspector General, and to the U.S. Department of Justice, under 34 CFR 99.33(b)." Schools should check with the program review staff to find out if any redisclosure is anticipated.

As mentioned earlier, the financial aid office is usually not responsible for developing the school's FERPA policy. However, if you are involved in developing your school's policy and would like a copy of the Department's model policy for postsecondary schools, you may write to the following address:

Family Policy and Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-4605

Agreements Between Schools

CHAPTER 9

Two or more institutions may enter into a consortium or contractual agreement so that a student can continue to receive SFA funds while studying at a school or organization other than his or her "home" institution. (The home school is the one that will grant the student's degree or certificate.) This chapter discussed the specific requirements for such agreements.

Under a consortium or contractual agreement (including those for study abroad programs), the home school must give credit for the courses taken at the other school(s) on the same basis (in terms of instructional time) as if it provided that portion itself. The underlying assumption of the agreement is that the home school has found the other school's or organization's academic standards to be equivalent to its own, and a completely acceptable substitution for its own instruction.

However, a home school may decline to give credit for courses in which a student earns a grade of "D" at the other school. Although a home school has a policy of accepting grades of "D" or above earned at the home school, it does not have to accept credits earned for courses at the other school for which a student earns a "D."

Grades received through either a consortium or contractual agreement do not have to be included in the calculation of the student's grade point average (GPA).

CONSORTIUM AGREEMENT

A consortium agreement, which can exist between eligible schools only, can apply to all the SFA Programs. Under such a written agreement, students may take courses at a school other than the "home" institution (the school where the student expects to receive a degree or certificate) and have those courses count toward the degree or certificate at the home school.

Elements of a Consortium Agreement

There is no limit on the portion of the eligible program that may be provided by eligible schools other than the home school. Agreement contents can vary widely and will depend upon the interests of the schools involved and the accrediting or state agency standards. The Department does not dictate the format of the agreement (which can be executed by several different offices) or where the agreement is kept. However, certain information should be included in all agreements, such as which school will grant the degree or certificate, what the student's tuition, fees, and room and board costs are at each school, and what the student's enrollment status will be at each school. The agreement should also specify which school will be responsible for disbursing aid and monitoring student eligibility and should include the procedures for calculating awards, disbursing aid, monitoring satisfactory progress and other student eligibility requirements, keeping records, and distributing SFA refunds. Usually, the home institution is responsible for disbursements, but if the student is enrolled for a full term or academic year at the host institution, it may be easier for the host institution to monitor the student's eligibility and make payments. The school paying the student must return SFA funds if required (for example, in refund or overpayment situations). For details on how agreements affect Federal Pell Grant calculations, see *Volume 3 — Pell Grants.*

Effective Date of the Agreement

The agreement becomes effective for the payment period in which it is signed; however, it can be retroactive to a previous payment period if the payment period is in the same award year. Thus, if an agreement is signed in the middle of the spring semester, the student can be paid for the entire award year, including the preceding fall semester.

CONTRACTUAL AGREEMENT

A contractual agreement is between eligible and ineligible schools[1] or organizations, as defined in Chapter 1. Under such an agreement, the ineligible school or organization provides, under written contract, a portion of the eligible school's educational program.

There is a limit on the portion of the program that can be given at the ineligible school. If both the home and ineligible schools are owned or controlled by the same individual, partnership, or corporation, no more than 25% of the educational program can be provided by the ineligible school. If the two schools are separately owned or controlled, the ineligible school can provide up to 50% of the educational program. However, in the case of separately owned schools, if the contracted portion is more than 25% of the program, the home school's accrediting agency or state agency (in the case of a public postsecondary vocational institution) must determine and confirm in writing that the agreement meets its standards for contracting out education services.

Under a contractual agreement, the eligible school is always the home school. The home school performs all the aid processing and delivery functions for its students attending the ineligible school or organization. The home school is responsible for maintaining all records necessary to document student eligibility and receipt of aid. (See Chapter 8.)

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[1] An eligible school may not contract with an ineligible school that has been terminated from SFA Program participation or has withdrawn from SFA Program participation while under a termination, show-cause, suspension, or similar proceeding by a state licensing agency, accrediting agency, guaranty agency, or the Department.

Contracted portion of an educational program covers situations ranging from a "junior year abroad" program to a portion of a cosmetology program given by an ineligible cosmetology school under contract with an eligible community college or vocational-technical school. In the traditional academic community, a baccalaureate institution does not jeopardize its eligible programs if no more than one academic year is spent by students at an ineligible institution, such as a foreign institution under the junior year abroad concept. At schools that predominantly grant associate degrees, eligible programs are not jeopardized if students spend no more than one semester or one quarter studying under contract at an ineligible school. (Of course, students may exceed these limits and take up to 50% of the program at a separately owned school if the school's accrediting agency has approved the contractual agreement.)

STUDY ABROAD OR DOMESTIC EXCHANGE PROGRAMS

Students usually participate in study abroad or domestic exchange programs in one of two ways:

- by paying tuition and fees directly to the school the student is temporarily attending (for example, through an out-of-state tuition waiver system), or
- by paying tuition and fees at the home school, while taking courses at another school.

Important: Some students have had problems receiving SFA Program funds for study abroad or domestic exchange programs, because neither the student's home school nor the school the student is temporarily attending considers the student enrolled in an eligible program of study. These circumstances have caused otherwise eligible students to be denied financial assistance at both schools.

The law states that a student participating in a study abroad program is eligible for SFA funds, regardless of whether the program is required for the student's regular, eligible program of study, as long as the student is an eligible regular student enrolled in an eligible program at the home school. The study abroad program must be part of a written contractual agreement between the two schools, and the program must be accepted for credit by the home institution. (The program does not have be required for the eligible program in which the student is enrolled at the home institution for it to be accepted for credit.) The law also includes these provisions in the Program Participation Agreement.

Applying for and Maintaining Participation in the SFA Programs

CHAPTER 10

In this chapter, we will discuss how and when a school applies for approval to participate in any Student Financial Assistance (SFA) Program. We also discuss changes that can affect a school's participation and how and when to report these changes.

APPLYING TO PARTICIPATE

Application Form
Sec. 498(b)

To participate in any of the SFA Programs—the Pell Grant Program, the Federal Direct Loan Program, the Federal Family Education Loan (FFEL) Program, and the campus-based programs (Federal Supplemental Educational Opportunity Grant [FSEOG], Federal Work-Study [FWS], and Federal Perkins Loan)—a school must be certified by the Department.

To apply for institutional participation, a school must submit an Application for Approval to Participate in Federal Student Financial Aid Programs (Application) to the Department. In evaluating the school and deciding whether to approve or deny the request to participate in any SFA Program, the Department examines the Application and accompanying submissions. In addition, for schools that are participating or have participated in the SFA Programs, the Department will examine a school's audits and program reviews. The Department also will check to see if a school has submitted all the required financial statements and compliance audits. The Department may request additional materials (such as school catalogs or copies of contracts with third-party servicers) and ask additional questions. Note that, effective October 1, 1998, the Higher Education Amendments of 1998, Public Law 105-244 (Amendments of 1998) allow a school to provide a copy of its contract with a third-party servicer upon request, rather than requiring that it be submitted as part of the certification process.

The Department uses this information to examine three major factors about the school: institutional eligibility, administrative capability, and financial responsibility. Each of these subjects is discussed in detail in Chapters 1-4. The Amendments of 1998 clarify that the Application is to contain information that allows the Department to evaluate a school's financial responsibility and administrative capability. In addition, the Amendments require that the Application provide, at the option of a school, for participation in one or more of the FFEL and Direct Loan programs. (Both of these provisions are effective October 1, 1998.)

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This chapter covers:

- When a school should submit an Application to Participate in the Federal Student Financial Aid Programs,
- The steps a school must follow when submitting an Application
- How to submit changes to an Application
- Quality Assurance Program
- Experimental Sites Initiative.

Electronic application

Applications for initial certification, recertification, reinstatement, or reporting changes to previous applications must be submitted to the Department electronically through the Internet (for more information on required electronic processes, see Chapter 3). A signature page is required and must be mailed separately along with all required supporting documentation. The Department has made the Application available on the Department's web site on the World Wide Web. The address is

http://www.eligcert.ed.gov

Electronic Application Process

1. A school seeking initial certification should enter the web site above, and click on the hot link marked, "initial application". The hot link provides specific requirements that the school needs to review and follow to gain eligibility and certification.

2. If the school believes it meets all the requirements and wants to apply for approval, it must provide answers to certain basic questions on the Electronic Application. These questions are taken from the Application and are numbered respectively.

3. Once the school answers these questions, the school prints and faxes them to the Case Management and Oversight (CMO) Team in the school's home state. A current list of CMO phone numbers can be found on the eapp web site above.

4. CMO then provides the school with an OPEID number that gives the school access to the entire electronic application on the Internet. The school reenters and completes the electronic application.

5. The information provided will be entered into the CMO database and will be printed on the paper Application. This reduces the need to answer the question more than once.

CMO recommends that the school keep a copy of its application (and supporting documents) and retain proof of the date when it

This Application is divided into 13 sections, plus a glossary at the end.

This Section ...	*Is for ...*
A through D	*General questions about the school.*
E and F	*Questions about educational programs and locations that the school wishes to be eligible for SFA Programs.*
G	*Questions about telecommunications and/or correspondence (tele/corr) courses, students enrolled under ability-to-benefit provisions, and incarcerated students.*
H	*Schools that are initial applicants, schools with a change in ownership or structure, and schools seeking reinstatement.*
I	*Foreign institutions, including foreign graduate medical schools.*
J	*Questions about third-party servicers that perform any function relating to the school's SFA Programs.*
K	*Questions about the school's administrative capability and financial responsibility.*
L	*The school's President/CEO/Chancellor to sign.*
M	*A checklist of copies of documents that must be included, as applicable.* [1]
Glossary	*Specific definitions of terms used in the application.*

[1] These include the school's current letter of accreditation; valid state authorization; and, in some cases, audited financial statements, a default management plan and, for a school undergoing a change in ownership, an audited balance sheet showing the financial condition of the school at the time of the change in ownership.

submitted the Application. The completed electronic version of the Application is sent to the Department. The school must submit the paper page containing the original authorizing signature of the school's President/Chief Executive Officer (CEO)/Chancellor.

The date of submission for an electronic application is the date a school uses the "Submit Application" page to electronically submit the application or the date the signature page and supporting

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documents were postmarked or sent by a delivery service, whichever is later. For an application that is mailed or delivered, the Department considers the date of submission to be the postmark date or a delivery service's or courier's written verification or printout of the shipping date.

If a school has questions, it is encouraged to contact Case Management and Oversight.

Site Visits

Prior to the Amendments of 1998, the law required the Department to conduct a site visit at each school before the school was certified or recertified for participation in the SFA Programs. The Department was permitted to establish priorities about how schools are selected to receive site visits. In addition, the Department was permitted to coordinate the site visits with site visits by states, guaranty agencies, and accrediting agencies to eliminate duplication and reduce administrative burden. Finally, the Department was permitted to charge to cover the expense of site visits and certification.

PRECERTIFICATION TRAINING REQUIREMENT

In order to participate in any SFA Program, a school must send two representatives (an administrative official and a financial aid representative) to a basic precertification training workshop offered by the Department. The Department also requires a school that has undergone a change in ownership, structure or goverance to attend the training.

NEW

Note: The Application now allows a school to select the SFA Program(s) it wishes to participate in and opt not to participate in others. If the school later decides that it would like approval to participate in SFA Programs in addition to the ones indicated on its submitted Application, it is required to send representatives to precertification training again (The law requires that training take place within the 1st year of each first-time approval to participate in an SFA Program).

The precertification workshop provides a general overview of the SFA Programs and their administration. It does not cover fiscal and accounting procedures in detail; the Department offers fiscal officer training separately.

- The attending administrative official must be the school's CEO for a for-profit school; nonprofit schools may send another administrative official designated by the chief administrator. The administrative official must attend at least the first two days of the workshop.
- The attending financial aid representative must be the person designated by the school to be responsible for administering the SFA Programs. The financial aid representative must attend all 3-1/2 days of the workshop.

- If the school uses a consultant to administer its financial aid, the consultant must attend the training as the school's financial aid representative. Because the school ultimately is responsible for proper SFA Program administration, the Department strongly recommends that a financial aid employee from the school attend the training as well.

A school affected by this precertification training requirement will receive notification of the requirement, a schedule of workshops, and registration instructions along with an Application. The school must attend the training no later than 12 months after it signs the PPA.

The regulations allow schools to meet the precertification requirement by sending the specified individuals to other training programs that are approved by the Department. However, at this time no precertification training programs other than the Department's have been approved.

When to Complete an Application

A school submits a materially complete application to the Department when it

- wishes to be approved for the first time (initial certification) to participate in the SFA Programs;
- wishes to be reapproved (recertification) to participate in the SFA Programs (the application must be completed 90 days before the expiration of the current Program Participation Agreement (PPA);
- wishes to be designated as an "eligible institution" so that its students may receive deferments under the SFA Programs, its students may be eligible for the HOPE Scholarship tax credit, or so that the school may apply to participate in federal HEA programs other than the SFA Programs; or
- wishes to be reinstated to participate in the SFA Programs.
- undergoes a change in ownership, a conversion for a for-profit institution to a nonprofit institution or vice versa, or a merger of two or more institutions (referred to collectively as a "change in ownership, structure or goverance" for the remainder of the chapter) and wishes to participate in the SFA Programs;

Each of these five circumstances is discussed in more detail in the next section of this chapter.

The 1992 reauthorization of the HEA required that every four years a school must be reapproved (recertified) to participate in the SFA Programs. The Amendments of 1998 extend the certification period to up to 6 years. In addition, the Amendments of 1998 require

Materially Complete

An institution submits a materially complete application if it submits a fully completed application form supported by

- *a copy of the institution's state license or other equivalent document authorizing the institution to provide a program of postsecondary education in the state in which it is physically located,*
- *a copy of a document from its accrediting agency that grants it accreditation status, including approval of the non-degree programs it offers, and*
- *any other required supporting documentation.*

the Department to notify schools six months in advance of the expiration of their certification.

The Amendments also direct the Department to publish special recertification regulations for foreign schools that receive less than $500,000 in FFEL loan funds.

A school seeking initial certification to participate in the SFA Programs

- May submit an application to the Department at any time.[1]
- Must submit a materially complete application to the Department.
- Following submission of an Application, the Department will contact the school if it has additional questions about the application. A school that has never been certified will not be considered certified during the review period.
- Depending on the outcome of its review, the Department either will send the school copies of the PPA to sign (and further instruction) or notify it that its application is not approved.
- In the case of a proprietary institution and a postsecondary vocational institution, there is an eligibility requirement that the school must have been providing the same or similar postsecondary instruction continuously for at least two consecutive years before it can participate in the SFA Programs. This is known as the Two-Year Rule. (See Chapter 1).

A school seeking to be recertified to continue to participate in the SFA Programs

- Must submit an Application before the expiration date listed in its Program Participation Agreement (PPA).
- If the school submits its materially complete application to the Department no later than 90 calendar days before its PPA expires, its eligibility to participate in the SFA Programs continues until its application is either approved or not approved. This is true even if the Department does not complete its evaluation of the application before the PPA's expiration date. (For example, if a school's PPA expires on June 30 and it submits its Application by April 1, the school remains certified during the Department's review period—even if the review period extends beyond June 30.) If the 90th day before the PPA's expiration falls on a weekend or a federal holiday and the school submits its application no later than the

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[1] In the case of a proprietary institution and a postsecondary vocational institution, there is an eligibility requirement that the school must have been providing the same or similar postsecondary instruction continuously for at least two consecutive years before it can participate in the SFA Programs. This is known as the Two-Year Rule. (See Chapter 1.)

next business day, the Department considers the application to be submitted 90 days before the PPA expires. If the school's application is not received at least 90 days before the PPA expires or is not materially complete, the school's PPA will expire and the SFA Program funding will cease.

- Following submission of an Application, the Case Team will contact the school if it has additional questions about the application. Generally, this will be within 90 days of the Department receiving an application.

- If a school is certified (and is seeking recertification), it will remain certified during the review period if it submitted a materially complete application during the correct time frame (above).

- Depending on the outcome of its review, the Case Team either will send a school copies of the PPA to sign (and further instruction) or notify the school that its application is not approved and why.

- The school's certification period is up to 6 years. And, the Department must notify schools 6 months in advance of the expiration of their certification.

Certification Cite
34 CFR 668.14

A school applying for eligibility for its students to: receive deferments under federal student loan programs, be eligible for the HOPE and Lifetime Learning Tax Credit and/or to participate in federal HEA programs other than the SFA Programs

To meet the requirements for its students to defer student loan payments and to take part in other HEA programs, the school is required to be approved as an eligible school- it is not actually required to award SFA funds. (See Chapter 1 for information about what constitutes an eligible school.)

- School may submit an Application to the Department at any time.

- Must submit a materially complete application to the Department.

- Following submission of an Application, the Department will contact the school if it has additional questions about the application. Generally, this will be within 90 days of the Department receiving an application.

- If a school has never been an eligible school under the HEA, it will not be considered eligible during the Department's review period.

- Depending on the outcome of its review, the Department either will send the school copies of the PPA to sign (and further instruction) or notify it that its application is not approved.

A school that voluntarily left the SFA Programs

- May seek to be reinstated at any time.

- Must submit a materially complete application to the Department.

- Following submission of an Application, the Department will contact the school if it has additional questions about the application. Generally, this will be within 90 days of the Department receiving an application.

- If a school once participated in the SFA Programs but no longer does so, it will not be considered certified during the Department's review period.

- Depending on the outcome of its review, the Department either will send the school copies of the PPA to sign (and further instruction) or notify it that its application is not approved.

A school that was terminated from the SFA Programs or that left because it was about to be terminated or otherwise sanctioned

- Generally must wait 18 months before applying for reinstatement,

- Under the cohort default rate rules, generally a school loses participation for the remainder of the fiscal year and the two following fiscal years.

- Must submit a materially complete application to the Department.

- If a school once participated in the SFA Programs but no longer does so, it will not be considered certified during the Department's review period.

- Following submission of an Application, the Department will contact the school if it has additional questions about the application. Generally, this will be within 90 days of the Department receiving an application.

Review of an Application to Participate results in one of three outcomes:

1. Full certification,

2. Provisional Certification, or

3. Denial.

PPA and ECAR

If the Department approves a school's application, the Department sends the school two copies of a PPA (see Chapter 2). The **PPA** includes the date that the school's eligibility to participate expires. The school must sign and return both copies of the PPA to the Department. The Department then sends the school an Eligibility and Certification Approval Report (ECAR) and the school's copy of the PPA, signed and dated on behalf of the Secretary. The **ECAR** contains the most critical of the data elements that form the basis of the school's approval and also a list of the highest level of offering, any nondegree program or short-term programs, and any additional locations that have been approved for the SFA Programs. Both of these forms must be kept available to be reviewed by auditors and Department officials, including the SFA Program reviewers.

Effective Date for Participation

The date the PPA is signed on behalf of the Secretary is the date the school may begin SFA Program participation. (Currently, there are additional steps that must be taken for participation in the Direct Loan Program. For more information, see *Volume 8 — FFEL/DL.*) Pell Grant and campus-based program disbursements to students may begin in the payment period that the PPA is signed on behalf of the Secretary. Schools receiving initial certification can participate in the campus based programs in the next award year that funds become available. FFEL and Direct Loan program disbursements may begin in the loan period that the PPA is signed on behalf of the Secretary. The Department's Program Systems Service and regional offices are notified, as well as state guaranty agencies, that the school is approved to participate in the SFA Programs.

Provisional Certification

In certain cases, rather than granting full approval to participate, the Department may grant a school conditional approval to participate in the SFA Programs (for up to three complete award years). Referred to as "provisional certification" in the law, this approval is granted at the Department's discretion.

Provisional Certification
Sec. 498(h)

The Department will, if it approves the school, offer provisional certification to a school that allowed its PPA to expire and reapplied to participate in the SFA Programs after its approval to participate ended. (Note: If a school applying for recertification meets the submission deadlines detailed in the introduction to the Application, its PPA remains in effect until the Department either approves or does not approve the application.) If the Department grants a provisional certification, the PPA details the provisions of the certification.

Provisional certification is always used when

- a school is applying to participate for the first time (if approved, it will be provisionally certified for no more than one complete award year), and
- a participating school is reapplying because it has undergone a change in ownership, structure or goverance. If approved, it will be provisionally certified for no more than three complete award years (see the discussion of "Change in ownership, structure or goverance" on page 2-241).

Other times provisional certification may be used are when

- a participating school whose participation has been limited or suspended (or that voluntarily agrees to this provisional status) is judged by the Department to be in an administrative or financial condition that might jeopardize its ability to perform its responsibilities under its PPA,
- a participating school's accrediting agency loses its Departmental approval (it may be provisionally certified for no more than 18 months after the agency's loss of approval),
- it is determined that a school is not financially responsible but the school has met other requirements and has accepted provisional certification, or
- a school that is reapplying for certification has a high default rate.

Revoking Provisional Certification

If the Department determines that a school with provisional certification cannot meet its responsibilities under its PPA, the Department may revoke the school's participation in the SFA Programs. The Department will notify the school of such a determination in a notice that states the basis and consequences of the determination. The notice is sent by certified mail (or other expeditious means). The revocation takes effect on the date the secretary mails the notice to the school.

The school may request a redetermination of the revocation by submitting, within 20 days of receiving the notice, written evidence (filed by hand delivery, mail, or fax) that the finding is unwarranted. A Department official will review the request and notify the school by certified mail of his or her decision. If the Department official determines that the revocation is warranted, the school may not apply for reinstatement for 18 months after the revocation or after the expiration of any debarment/suspension action, whichever is later.

A school that undergoes a change in ownership that results in a change of control, structure, or governance:

Cite
34 CFR 668.31

A change in ownership and control occurs when a person or corporation obtains new authority to control a school's actions. Please see the following section regarding additional requirements. This includes, but is not limited to the following "covered transactions":

1. The sale of the school,
2. The transfer of the controlling interest of stock of the school or its parent corporation,
3. The merger of two or more eligible schools,
4. The division of one school into two or more schools,
5. The transfer of the liabilities of a school to its parent corporation,
6. A transfer of assets that comprise a substantial portion of the educational business of the school, except if it is exclusively in the granting of a security interest in those assets, or
7. A conversion of the school from a for-profit to a nonprofit school.

This does not include a transfer of ownership and control upon the retirement or death of the owner, to –

1. A member of the owner's family (parent, sibling, spouse or child, spouse's parent or sibling, or sibling's or child's spouse), or
2. A person with an ownership interest in the school who has been involved in management of the school for at least two years preceding the transfer.

These are known as an "excluded transactions".

Please see the next section regarding additional requirements.

The application process for a school undergoing a change in ownership is substantially different from the other types of processes described previously, because its participation in the SFA Programs stops on the day of the change. The school may not award SFA Program funds beginning on the date that the change becomes effective until it receives a new PPA signed on behalf of the Secretary of Education. (Exceptions for unpaid commitments of SFA Program funds are discussed on page 2-247). The school can take advantage of two new options that are now available. They are the preacquistion review and temporary provisional approval after the change in ownership. These are described below.

1. Preacquisition Review

Schools may submit an application marked "preacquisition review" before a change in ownership takes place. This review is to determine if there are any problems facing the potential owner in getting Departmental approval. The application is reviewed to determine whether the school has answered all the questions on the application completely and accurately. It must be submitted at least 45 days prior to the expected date of transaction. The Case Management and Oversight (CMO) Team will notify the school of the results of the review. However, the school will not be given a decision whether its application would be approved or not as a result of this preacquisition review.

If the potential owner decides not to purchase the school, he or she must notify the Case Management Team of the decision to withdraw the application.

If the potential owner considering the change in ownership decides to go through with the purchase, he or she must:

1. Notify the Department within 10 days of the date the change in ownership actually takes place. If this date falls on a weekend or a federal holiday, the notification may be no later than the next business day.

2. Submit the supporting documents required for a materially complete application. Refer to section "M" of the application for the list of specific forms to submit.

2. Temporary Approval for Continued Participation on Provisional Certification after Change in Ownership

The 1998 Amendments, §498(i)(4) of the HEA authorizes the Secretary to permit a school undergoing a change in ownership that results in a change in control to continue to participate in the Title IV, HEA programs on a provisional basis if the school meets the following specific requirements.

The materially complete Application must be received at the Department no later than 10 business days after the change becomes effective. If this date falls on a weekend or a federal holiday, the notification may be no later than the next business day.

- A materially complete application for the purpose of applying for a temporary approval must include: A fully completed application form,

- A copy of the school's state license or equivalent that was in effect on the day before the change in ownership took place,

- A copy of the accrediting approval that was in effect on the day before the change in ownership and had granted the school accreditation status including an approval of the non-degree programs it offers,

- Audited financial statements of the school's two most recently completed fiscal years that are prepared and audited in accordance with the requirements of §668.23; Generally Accepted Accounting Principles (GAAP), published by the Financial Accounting Standards Board, and audited in accordance with Generally Accepted Governmental Auditing Standards (GAGAS) published by the U.S. General Accounting Office, as required by §668.23; **and**

- Audited financial statements of the schools new owner's two most recently completed fiscal years that are prepared and audited in accordance with §668.23 Generally Accepted Accounting Principles (GAAP), published by the Financial Accounting Standards Board, and audited in accordance with Generally Accepted Governmental Auditing Standards (GAGAS), published by the U.S. General Accounting Office, or acceptable equivalent information for that owner, and

- Signature page - Section L.

The supporting documents must be mailed to:

By U.S. Postal Service:

U.S. Department of Education
Case Management and Oversight
P.O. Box 44805
L'Enfant Plaza Station
Washington, DC 20026-4805

By commercial overnight mail/
courier delivery:

U.S. Department of Education
Case Management and Oversight
7th & D Streets, S.W.
GSA Building, Room 5643
Washington, DC 20407
Phone: (202) 205-1936 (for this purpose)

Changes in Ownership, Structure or Governance
Sec. 498(i)

If the application is approved, CMO will send the school a Temporary Provisional Program Participation Agreement (Temporary PPA) that includes the same conditions of the existing PPA, if any.

The Temporary PPA expires on the earlier of the:

- Date that the Department signs a new program participation agreement;
- Date that the Department notifies the school that its application is denied; or
- Last day of the month following the month in which the change of ownership occurred unless the school provides the necessary documents described below.

The Department can automatically extend the Temporary PPA on a month to month extension **IF** prior to the expiration date, the school submits:

- A "same day" balance sheet showing the school's financial position, on the day the ownership changed, prepared in accordance with GAAP and audited in accordance with GAGAS;
- If not already provided, approval of the change of ownership from the school's state agency that legally authorizes postsecondary education in that state;
- If not already provided, approval of the change of ownership from the school's accrediting agency; and
- One of the following regarding default management:
    - A Default Management Plan set forth in Appendix D of 34 CFR Part 668; or
    - A Default Management Plan other than that in Appendix D; or
    - The school is exempt from providing a default management plan because the school, including its main campus and any branch campus, does not have a cohort default rate in excess of 10 percent; and the owner of the school does not, and has not, owned any other school with a cohort default rate in excess of 10 percent.

Change in Controlling Interest

A change in ownership and control occurs when a person or corporation obtains new authority to control a school's actions, whether the school is a proprietorship, partnership, or corporation. The most common example of this change in controlling interest is when the school is sold to a prospective owner.

Control of a school can change in other ways, too. For instance, a school can convert from a for-profit to a nonprofit institution (or vice versa). This is a change in tax status. A school's control may change when two or more schools merge or one school divides into several schools. A school's control also changes in situations where a school transfers a significant amount of stock to another person or corporation or when a school transfers its assets or liabilities to another corporation (including related corporations under the same ownership).

A change in ownership and control of a corporation that is neither closely held nor required to be registered with the Securities Exchange Commission (SEC) occurs when a person who has or acquires an ownership interest acquires both control of at least 25% of the total outstanding voting stock of the corporation and managing control of the corporation.

(For a more detailed list of the types of circumstances that signify a change in ownership, structure or goverance, see 34 CFR 600.31.)

Owner's Death or Retirement

However, a school does not automatically have to submit a materially complete Application to the Department when a change in ownership and control is caused by the owner's death or retirement and ownership transfers to a family member or to a person with ownership interest who has been involved in the management of the school for at least two years preceding the transfer. In these situations, the school must notify the Department of the change and provide any supporting information requested by the Department.

Family Member

A family member is defined as a parent, sibling, spouse, child, spouse's parent, spouse's sibling, or child's spouse.

Ownership Interest

Ownership interest is a share of the legal or beneficial ownership or control of the school or parent corporation, or a right to share in the proceeds of the operation of the school or parent corporation.

The law requires that a school must report to the Department the identity of every owner or person directly or indirectly holding 25% or greater interest in the school.

Changes in Ownership Interest and 25% Threshold

The school must report any change in ownership interests whenever

- an owner acquires a total interest of 25% or greater,
- an owner who held 25% or greater interest reduces his or her interest to less than 25%, or
- an owner of 25% or greater interest increases or reduces his or her interest but remains the holder of at least 25% ownership interest.

Because of these reporting requirements, even though transferring ownership interest through death or retirement may be excluded from being considered a change in ownership resulting in a change of control, the resulting change in percentage(s) of ownership interests must be reported to the Department.

Reporting

A school must report any changes that result in an individual or owner (including a corporation or unincorporated business entity) acquiring the ability to substantially affect the actions of the school. Such a change must be reported within 10 days of the change; a school owned by a publicly traded corporation must report the change within 10 days after the corporation learns of the change. All schools are subject to these requirements, which are enforced during the institutional participation approval process, program reviews, and audit process.

An individual or corporation has the ability to substantially affect the school's actions when he or she or it

- personally holds, or holds in partnership with one or more family members, at least a 25% ownership interest in the school,
- personally represents (with voting trust, power of attorney, or proxy authority), or represents in partnership with one or more family members, any individual or group holding at least a 25% ownership interest in the school,
- is the school's chief executive officer (or other executive officer) or a member of the school's board of directors, or
- is the chief executive officer (or other officer) for any entity that holds at least 25% ownership interest in the school, or is a member of the board of directors for such an entity.

The regulations [34 CFR Part 600.30(e) and 668.15(f)] include examples of ownership interest as an interest as tenant, joint tenant, or tenant by the entirety, a partnership, and an interest in a trust. The regulations specifically exclude from the term the proceeds of the operation of a mutual fund that is regularly and publicly traded, an institutional investor, or a profit-sharing plan that covers all employees (except that voting rights of employee stock plans may be attributed to anyone having authority to vote those shares).

To ensure that its SFA Program participation isn't jeopardized, a school must report an ownership change (including the name[s] of the person[s] involved) to the Department. On receiving the notification, the Department will investigate and notify the school whether a change in ownership resulting in a change of control has occurred that will require the school to submit a materially complete Application if it wishes to participate in the SFA Programs.

Steps to be Taken by Former Owners

If a school is changing control, the former owner(s) must notify the Department about the change and the date it occurs. This must be at the same time that the owner notifies the school's accrediting agency, but no later than 10 days after the change occurs. (If the former owner fails to notify the Department, the prospective owner is responsible for doing so.) The current owner also should notify the appropriate state agency that licensed or approved the school.

Payments to Eligible Students

Before the change in ownership, structure or goverance takes place, the former owner should make sure that all students receive any SFA payments already due them for the current payment period and that all records are current and comply with federal regulations. If the school needs additional funds for its students for the current payment period, it should request them and disburse them to all eligible students before the change takes place.

The school loses its approval to participate in the SFA Programs when the change takes place. Generally, a school may

- use Pell Grant or campus-based funds that it has received or request additional Pell Grant or campus-based funds from the Department to satisfy any unpaid commitment made to a student from the date the school's participation ended until the scheduled completion date of the payment period, and

- credit a student's account with the proceeds of a second or subsequent disbursement of a FFEL Stafford or a Direct Loan to satisfy any unpaid commitment made to the student under the FFEL Stafford or Direct Loan Program from the date participation ends until the scheduled completion of that period of enrollment. (The proceeds of the first disbursement of the loan must have been delivered to the student or credited to the student's account prior to the end of the participation.)

The school should notify all new students that no federal aid funds can be disbursed until the school's eligibility is established and a new PPA signed by the Department is received.

The school may not award the SFA Program funds beginning on the date that the change becomes effective. If the school's prospective owner(s) wish the school to participate in one or more of the SFA Programs, the school must submit a materially complete Application to the Department.

Steps to be Taken by Prospective Owners

The prospective owner should request that the former owner provide copies of the school's existing ECAR, refund policy, any required default management plan, program reviews, audited financial statements (for at least the two most recently completed fiscal years), compliance audits, and an audited balance sheet showing the financial condition of the institution at the time of the change. The prospective owner will need this information to receive approval to participate.

Accompanying the application must be audited financial statements for the school's two most recently completed fiscal years, an audited balance sheet showing the financial condition of the school at the time of the change, and a default management plan, if required. Each participating school must demonstrate financial responsibility independently. If the entity that has acquired the school is an ongoing entity (partnership or corporation), the school must also submit completed audited financial statements of the acquiring entity for the last two consecutive fiscal years. (For information on financial responsibility and submitting audited financial statements, see Chapter 2.)

Default Managment Plan Required
Sec. 487(a)

The school also must submit proof that its accreditation is continued under the new ownership or control, along with a photocopy of its state legal authorization under the new ownership.

The school may not award SFA Program funds until it receives a PPA signed on behalf of the Secretary.

Accepting Liabilities and Refund Policy Cite
34 CFR 668.14(b)(24)

Expiration of Certification
Sec. 498(g)

Accepting Liabilities and Refund Policy

If the prospective owner(s) acquired the school or if the school is the result of a merger of two or more former schools, the prospective owner is liable for any debts from the former owner's SFA Program administration. The prospective owner accepts liability for any federal funds that were given to the school but that were improperly spent before the date the change in ownership, structure or goverance became effective. The prospective owner must also abide by the refund policy for students enrolled before the date the change became effective and must honor all student enrollment contracts signed before the date of the change.

Effect of Cohort Default Requirements

As mentioned earlier, the school retains its current and past cohort default rates and must implement any requirements associated with those rates. In fact, cohort default rates calculated for fiscal years prior to the change in ownership may affect the school's SFA participation. A school with a change in ownership, structure or goverance may be denied approval to participate in the SFA Programs on the basis of current default rates.

Prior to the Amendments of 1998, a prospective owner was required to submit a new default management plan with the Application regardless of the level of the school's cohort default rate.

However, the Amendments of 1998 exempt a school from submitting a default management plan if (a) neither the subordinate institution nor parent institution has a cohort default rate in excess of 10 percent and (b) the prospective owner does not own, and has not owned, any other school with a cohort default rate in excess of 10 percent. This provision is effective October 1, 1998.

Audits and Closeout Procedures

Although a separate financial aid compliance audit is not required when there is a change in ownership, structure or goverance, the prospective owner may choose to have the accounts audited before they are closed out. Any questions about SFA accounts or close-out procedures can be answered by the Department's Financial Management Specialists for the Pell Grant, campus-based, Direct Loan, or FFEL program. The prospective owner also should check with the Department's appropriate case management team for information on whether the school owes any Department liabilities resulting from program reviews or audits. See Chapter 11 for CMO phone numbers.

Before the date of purchase, the prospective owner should make sure that all students have received their SFA Program award payments for payment periods and periods of enrollment that began before the date of purchase, that all SFA Program accounts have been closed out, and that all related reports have been filed properly.

Once the Department determines that a school that has undergone a change in ownership, structure or goverance is eligible to participate in the SFA Programs, a new ECAR and signed PPA will be sent and appropriate offices will be notified that the school is certified to participate under the new ownership. The school may begin disbursing the SFA Program funds in the payment period or loan period (as applicable) in which the new PPA is signed on behalf of the Secretary.

SUBSTANTIVE CHANGES AND HOW TO REPORT THEM

A school is required to report changes to certain information on its approved Application. Some of these changes require the Department's written approval before the school may disburse the SFA Program funds, others do not (see the charts that follow).

Changes That Require the Department's Written Approval

(The number in parentheses refers to the number of the question on the Application.)

All Schools

- Change in accrediting agency* (#15)
- Change in state authorizing agency (#17)
- Change in institutional structure (#18)
- Change in educational programs outside of the scope of current approval (#26)
- Addition of nondegree programs outside of the scope of current approval (#27)
- Change from or to clock hours or credit hours (#27)
- Addition of a location (#30)

- Change to the SFA Programs for which the school is approved** (#37)
- Change in the type of ownership (#22)
- Change in ownership (#24)

*Notify the Department when you BEGIN making ANY change that deals with your school's institution-wide accreditation.

**Approvals from your accrediting agency and state authorizing agency are NOT required for this change.

When one of the changes that requires the Department's written approval occurs, a school must notify the Department by

1) reporting the change and the date of the change to the Department via the electronic application within 10 calendar days of the change, and

2) As soon as the school has received approvals for the change from its accrediting agency and state authorizing agency it must send to the Department

- copies of the approval for the change,
- any required documentation, and
- Section L of the Application containing the original signature of the appropriate person.

Changes Not Requiring the Department's Written Approval

All Schools

- Change to name of school* (#2)
- Change to the name of a CEO, President, Chancellor (#10)
- Change to the name of the chief fiscal officer, financial officer (#11)
- Address change for a principal location* (#29)
- Address change for other locations* (#30)
- Change to the school's third-party servicers that deal with the SFA Program funds (#58)

Private nonprofit and for-profit schools only

- Change to the Board of Directors (but not trustees) (#20)

Foreign schools only (including foreign graduate medical schools)

- Change to postsecondary authorization (#42)
- Change to degree authorization (#43)
- Change to program equivalence (#44)
- Change to program criteria (#45)
- Change to U.S. administrative and/or recruitment offices (#46)

Foreign graduate medical schools only

- Change to facility at which school provides graduate medical instruction (#47)
- Change to authorizing entity (#48)
- Change to approval of authorizing entity (#49)
- Change to length of program (#50)
- Change to programs located in the United States (#51)

*As soon as it has received approvals for the change from its accrediting agency and state authorization agency, a school must send the Department copies of the approvals for change.

When one of these changes occurs, a school must notify the Department by reporting the change and the date of the change to the Department via the electronic application within 10 calendar days of the change. In addition, a school must send

- any required supporting documentation, and
- Section L of the Application containing the original signature of the appropriate person.

to the address below.

Note that, for a change requiring written approval from the Department (unless otherwise noted) and for some changes that do not require written approval from the Department (noted on chart), a school must obtain approval from the appropriate accrediting agency and state authorizing agency.

The supporting documents must be sent by U.S. Postal Service to

U.S. Department of Education
CMO
P.O. Box 44805
L'Enfant Plaza Station
Washington, DC 20026-4805

or by commercial courier/overnight mail to

U.S. Department of Education
CMO
Room 5643
7th and D Streets, SW-GSA Building
Washington, DC 20407

Notification of School Closure or Bankruptcy

If a change occurs in an Application item not listed in one of the two charts, the school must update the information when it applies for recertification. However, if a school closes or files for bankruptcy, the school must notify the Department within 10 calendar days of either event by sending a letter on the school's letterhead that indicates the date the school closed or plans to close, or the date the school filed for bankruptcy, as appropriate.

When the Department is notified of a change, if further action is needed, it will tell the school how to proceed, including what materials and what additional completed sections of the Application need to be submitted. If a school has questions about changes and procedures, it should contact the Case Management and Oversight.

After receiving the required materials (and depending on the circumstances), the Department will evaluate the change(s) and either approve or deny the change and notify the school.

ADDING LOCATIONS OR PROGRAMS

The ECAR that the Department sends to the school lists the educational programs and locations that are eligible. (The eligibility of a school and its programs does not automatically include separate locations and extensions.) If, after receipt of the ECAR, a school wishes to add a location at which at least 50% of an educational program is offered, it must notify the Department.

Upon receipt of this notice, the Department will either confirm the location's eligibility without requiring an application or will instruct the school to apply for an eligibility and certification determination. (A school that is adding a location must be able to show the Department that the location is properly accredited and licensed by the state.)

For a location to be added, it must meet all institutional eligibility requirements as described in Chapter 1, except the Two-Year Rule. Each site must be legally authorized. To apply for a determination of eligibility for an added location, the school must send the Department the required application sections, a copy of the accrediting agency's notice certifying that the new location is included in the school's accredited status, and a copy of the state legal authorization from each state in which the school is physically located.

The Department will review the information, and will evaluate the school's financial responsibility, administrative capability, and eligibility. Depending upon the circumstances, the Department may conduct an on-site review. If it approves the additional location, a revised ECAR and Approval Letter will be issued. The location is eligible as of the date of the Department's determination. The Department may require a recertification application and a new PPA, in which case the school may disburse funds to students enrolled at that location only after both the school and the Secretary have signed the new PPA. The Department will send the school a revised ECAR.

When School May Make Program Eligibility Determination

If a school adds an educational program after receiving its ECAR, there are two cases in which the school itself may determine the program's eligibility:

- the added program leads to an associate, bachelor's, professional, or graduate degree (and the school has already been approved to offer programs at that level); or

- the added program is at least 8 semester hours, 12 quarter hours, or 600 clock hours in length and prepares students for gainful employment in the same or related recognized occupation as an educational program that the Secretary already has designated as an eligible program at the school.

Before the school may determine these programs to be eligible and disburse funds to enrolled students, the school must have received both the required state and accrediting agency approvals.

Note, however, that if the school's self-determination of eligibility for an educational program is found to be incorrect, the school is liable for all SFA Program funds received for the program and all SFA Program funds received by or for students enrolled in that program.

Department Must Approve All Other Added Programs

In all other cases, the eligibility of an added educational program must be determined by the Department before the SFA Program funds can be awarded. The school must submit the required Application sections and a copy of approval of the new program from its accrediting agency and state authorizing agency. The Department will evaluate the new program and the school. If it approves the additional program, a revised ECAR and Approval Letter is issued for the school, and the school is eligible as of the date of the Department's determination. The school may begin to disburse the SFA Program funds to students enrolled in that program. (For more on program eligibility, see Chapter 1.)

Waivers

The law mandates percentages of telecommunications and/or correspondence courses, students enrolled under ability-to-benefit provisions, and incarcerated students at a participating school. If there is a change to any of a school's answers to the Yes/No questions in Section G of a submitted Application (which deal with enrollment thresholds in these areas), the school must notify the Department via the application. The Department will advise the school of its options, including whether the school might be eligible for a waiver. (For more information, see Chapter 1.)

Changing from a non-main campus to a branch campus

If an institution wishes to seek approval for a non-main campus educational site as an eligible branch, the institution must submit completed Applications with the required supplemental documentation on 1) the "main" institution and 2) the non-main campus educational site. The following required supplemental documentation must be submitted for Case Management and Oversight to make a determination as to whether a non-main campus educational site is an eligible branch campus:

- A statement regarding the geographical distance between the main institution and the applicant non-main campus educational site.

- State authorization of the quasi-independent status of the non-main campus educational site from the main institution. This authorization may be in one of the following forms: 1) Applicable State law, 2) State Charter, 3) University system organization documentation, 4) State Department of Education or State Board of Regents regulations or documentation. Regardless of the type of documentation, there must be an explicit description of the quasi-independent status of the non-main campus educational site from the main institution.

- State authorization (in any of the four forms above) for the non-main educational site to have and maintain its own faculty and administrative staff, its own operating budget, and its own authority to hire and fire faculty and staff.

- An official statement describing its hiring authority.

- A statement from the main institution's primary accrediting agency indicating that it has accredited both the main institution and the non-main educational site through separate on-site visitations, and that the non-main educational siteís accreditation is distinct yet dependent upon the main institution.

- A specific description of the relationship between a main campus of an institution of higher education and all of its branches, including a description of the student aid processing that is performed by the main campus and that which is performed at its branches.
- The operating budget of the non-main campus educational site for the current year and the two prior fiscal years.
- Consolidated financial statements for the prior two years showing a breakdown of the applicantís financial circumstances.
- Other documents requested by the Case Team.

Changes in Accreditation

If a school decides to change its primary accrediting agency, it must notify the Case Management and Oversight when it begins the process of obtaining accreditation from the second agency. As part of this notice, the school must submit materials relating to its prior accreditation, and materials demonstrating a reasonable cause for changing its accrediting agency. If a school fails to properly notify the Department, the Department will no longer recognize the school's existing accreditation.

If a school decides to become accredited by more than one institutional accrediting agency, it must submit to the Case Management and Oversight (and to its current and prospective agency) the reasons for accreditation by more than one agency. This submission must be made when the school begins the process of obtaining the additional accreditation. If a school obtains additional accreditation and fails to properly submit to the Department its reasons for the additional accreditation, the Department will not recognize the school's accredited status with either agency.

If the Department ceases to recognize a school's accreditation, the school is no longer eligible to award SFA Program funds or take part in other programs under the Higher Education Act of 1965, as amended.

If a school becomes accredited by more than one agency, it must notify Case Management and Oversight of which agency's accreditation the school will use for the purpose of determining the school's institutional eligibility for the SFA Programs.

Quality Assurance Program
Sec. 487(a)

QUALITY ASSURANCE PROGRAM

Under the Quality Assurance (QA) Program, schools design and establish a comprehensive quality improvement program to increase award accuracy and strengthen their administration and delivery of SFA Programs and services. The emphasis of this program is on prevention or up-front correction and partnerships. It provides schools with the tools and incentives to accurately and effectively deliver student aid and to improve their service to students. It is based on the principles of Total Quality Management, with an annual cycle of assessment and problem identification with measurement, solution design and implementation, and monitoring of results for continuous improvement.

QA Program schools are exempt from certain verification requirements because they develop a school-specific program based on data gathered in the cycle of QA Program activities. Annual reporting requirements and periodic Quality Assurance site visits help ensure accountability and program integrity, and provide technical assistance. Schools that are interested in QA Program participation should contact the Performance and Accountability Improvement Branch at the following address or phone number:

U.S. Department of Education/OPE/SFAP/CMO
Performance and Accountability Improvement Branch
400 Maryland Ave., SW
ROB-3, Room 3925
Washington, DC 20202-5232
(202)260-4788

If a school is interested in conducting a self assessment of its policies, procedures, and overall compliance with SFA requirements, it can use the "Comprehensive Management Assessments" instrument used in the QA Program. This assessment is universally applicable, helping any school determine its strengths and weaknesses in the following areas: institutional participation, fiscal management, recipient eligibility, award calculation and disbursement, and reporting and reconciliation.

Even if a school is not interested in participating in the QA Program, it would benefit from this self-assessment exercise. This assessment was made available to all schools during the 1997-98 award year.

The Amendments of 1998 made the following changes to the specific provisions governing the Quality Assurance Program:

- The current provisions relating to data verification are expanded to include the development and implementation of systems for processing and disbursing student aid and entrance and exit interviews.

Experimental Sites Initiative
Sec. 487(a)

- The criteria for the selection of participants are expanded to include a requirement to ensure the selection of a diverse group of schools with respect to size, mission, and geographical distribution.

- The Department is authorized to waive regulations dealing with reporting or verification requirements in the SFA Programs that are addressed in the institution's alternative management plan and prohibits the Department from waiving any statutory provisions.

- The Department is required to review and evaluate the QA Program conducted at each participating institution and to make recommendations to Congress regarding amendments to the law to streamline the administration and enhance the integrity of the student aid programs.

The Quality Assurance (QA) Program is in a transition phase. It's broadened mission fits with SFA's goals of providing outstanding customer service while simplifying, integrating, and reducing the overall cost of administering the federal student financial assistance programs. This new QA Program will be part of a quality partnership program that will serve ALL institutions participating in Title IV by providing tools to promote continuous improvement, program integrity and better service to students.

All provisions are effective October 1, 1998.

EXPERIMENTAL SITES INITIATIVE

If a school believes that it has a better way to administer aspects of the SFA Programs than the way required by statute or regulation, it may apply to be an "experimental site." Using the authority under section 487A(d) of the Higher Education Act, the Department has approved exemptions to a variety of SFA statutory and regulatory requirements. So far, over 160 schools have been designated as experimental sites.

Thirteen areas of experimentation have been approved since the 1995-96 award year. They are

- entrance loan counseling,

- exit loan counseling,

- multiple disbursement for single term loans,

- thirty-day delay in loan disbursements for first-time, first-year borrowers,

- loan fees in cost of attendance,

- loan proration for graduating borrowers,
- crediting SFA funds to prior year charges,
- crediting SFA funds to institutional charges,
- overaward tolerance,
- academic term,
- federal work-study time records
- federal work-study payment, and
- ability to benefit.

The effective dates for the first nine experiments are July 1, 1995 to June 30, 2000. However, the Department obtained an extension for one year, through June 30, 2001. The effective dates for the last four experiments are July 1, 1997 to June 30, 2002.

This partnership between ED and institutions encourages schools to develop and test alternative approaches to the current prescriptive requirements. By allowing flexibility in how entrance loan counseling is handled, for example, schools might develop methods that are less administratively burdensome, but more effective in providing loan information. The Deparment will use results from these experiences to continue reforming administration of the SFA Programs.

The Department submitted a report to Congress on the experience of institutions that participated in the experimental sites initiative from 1995-1998. The report included a list of participants and their experiments, and the findings and conclusions resulting from those experiments. The Department seeks a limited number of institutions for participation as additional experimental sites to provide recommendations to the Department on the impact and effectiveness of proposed regulations or new management initiatives.

The Amendments of 1998 made several changes to the provisions that govern the Experimental Sites Initiative:

- Prior to approving additional experimental sites, the Department must consult with Congress and provide a list of institutions and the specific regulatory and statutory waivers, a statement of the objectives to be achieved, and the time period for the experiment.

- The Department may waive statutory requirements for participating schools based on the experiment except that the Secretary may not waive provisions related to award rules, grant and loan maximums, and need analysis requirements.

These provisions are NOT subject to the negotiated rulemaking process. All are effective October 1, 1998.

For further information on the experimental sites initiative, please call the Performance and Accountability Improvement Branch at 202-260-4788.

Program Integrity

CHAPTER 11

In this chapter we will discuss the oversight responsibilities of accrediting agencies, states, and the Department. This oversight is necessary to ensure the integrity of the SFA Programs.

STATE AND ACCREDITING AGENCY ROLES

Part H of the HEA prescribes requirements for ensuring the integrity of the SFA Programs. In addition to the oversight responsibilities of the federal government, states and accrediting agencies play a part in overseeing a school's operations.

State Role Cite
Subpart 1 of part H of the HEA

State Role

The Higher Education Amendments of 1998, Public Law 105-244 (the Amendments of 1998) officially repealed the State Postsecondary Review Program and replaced it with a subpart on the state role. (The State Postsecondary Review Program was added to the Higher Education Act in 1992; however, funds were never appropriated for the program.)

The law now requires that each state (through at least one state agency):

- furnish the Department, upon request, with information regarding licensing and other authorization for a school to operate in that state,
- promptly notify the Department of revocations of licensure or authorization, and
- promptly notify the Department of credible evidence that a school has committed fraud in the administration of the SFA Programs or has substantially violated a provision of the HEA.

These amendments to the law are all effective as of October 1, 1998.

Accrediting Agency Role
Subpart 2 of part H of the HEA

Accrediting Agency Role

The law establishes the general requirements for the recognition of accrediting agencies. One of these requirements states that an accrediting agency must meet criteria established by the Department. These criteria, which are found in 34 CFR part 602, allow the Department to determine whether it believes an accrediting agency to be a reliable authority on the quality of education offered by a school.

An accrediting agency can be recognized for institutional or programmatic accreditation. An institutional accrediting agency accredits the entire school. A programmatic accrediting agency accredits specific educational programs that prepare students for entry into a profession, occupation, or vocation.

An agency must have standards that effectively address the quality of a school or program in the following areas:

- Success with respect to student achievement in relation to mission, including, as appropriate, consideration of course completion, state licensing examination, and job placement rates.
- Curricula.
- Faculty.
- Facilities, equipment, and supplies.
- Fiscal and administrative capacity as appropriate to the specific scale of operations.
- Student support services.
- Recruiting and admissions practices, academic calendars, catalogs, publications, grading, and advertising.
- Measures of program length and the objectives of the degrees or credentials offered (see list of changes by the Amendments of 1998 below).
- Record of student complaints received by, or available to, the agency.
- Record of compliance with the school's SFA Program responsibilities, based on items such as default rate data, and the results of compliance audits and program reviews and any other information that the Department may provide to the agency, and
- Any additional accreditation standards the accrediting agency deems appropriate.

The Amendments of 1998 clarify that the Department will recognize, rather than approve, accrediting agencies. The Amendments also clarify that the Department establishes criteria, rather than standards, for such recognition. The Amendments of 1998 also made the following changes to the statutory accreditation requirements:

- To qualify as a nationally recognized accrediting agency, an agency must apply and enforce standards for accreditation that ensure that distance learning courses of study at a school are of sufficient quality to achieve their stated objectives for the duration of the school's accreditation period.
- To be a nationally recognized agency, an agency is required to have standards to assess a school. The Amendments alter the list of required standards by deleting the consideration of program length and tuition and fees in relation to the subject matter taught, and now require that the agency standards consider "measures of program length" and the objectives of the degree or credential offered.
- The requirements for unannounced site visits by an accrediting agency are changed from requiring at least one visit at schools providing vocational education and training, to authorizing, but not requiring, unannounced site visits at any school.
- More detailed procedures are provided for the Department to follow in making determinations concerning the limitation, suspension, or termination of an agency's recognition as a nationally recognized accrediting agency.
- Requiring a school to agree to submit any dispute involving the final denial, withdrawal or termination of accreditation to "initial" rather than "binding" arbitration.

These amendments to the law are all effective as of October 1, 1998.

THE DEPARTMENT'S ROLE

One of the Department's functions is to oversee the SFA Programs to ensure that they are administered properly. In this chapter we will discuss the two major types of oversight review, audits and program reviews, that are conducted at schools that participate in the SFA Programs. This chapter also includes information on requirements when a school's eligibility and/or participation ends and information on corrective actions and sanctions.

If in a program review or audit a school is identified as having disbursed improperly SFA Program funds, the school must restore those funds as appropriate. Program reviews and audits are not conducted solely to recover funds, but also to identify procedural problems at the school and recommend solutions.

If a school is cited for fraud or other serious program abuses in a program review or audit, the school may be subject to corrective action and/or sanctions, such as fines, emergency action, or limitation, suspension, or termination which are discussed later in this chapter.

Your Comments Are Important

The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of the Department of Education, call 1-888-REG-Fair (1-888-734-3247).

Audit Requirements for Schools
Sec. 497(c)(1)(A)

Independent Auditor
An independent CPA or government auditor, except that a government auditor must meet the Government Auditing Standards qualification and independence standard, including standards related to organizational independence.

Cites
34 CFR 668.23(a)(1)
34 CFR 668.23(a)(5)

Audit Requirements for Schools

The law requires that a school that participates in any SFA Program, including participating foreign schools, must have an independent auditor conduct, at least once a year, an audit of a school's compliance with the laws and regulations that are applicable to the SFA Programs in which the school participates (a "compliance audit"), and an audit of the school's financial statements (a "financial statements audit").

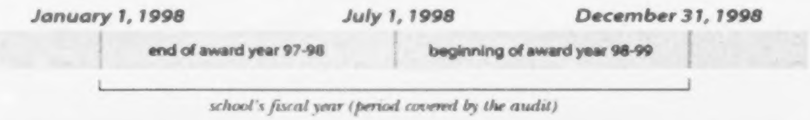
While a compliance audit covers the school's administration of the SFA Programs, a financial statements audit provides the Department with information necessary to evaluate a school's financial responsibility (see Chapter 4.)

As in the past, schools can meet these audit requirements by having an audit performed under the guidelines of the Department's *Audit Guide, Audits of Federal Student Financial Assistance Programs at Participating Institutions and Institutions Services* or, if applicable, by having an audit performed under the guidelines of the Office of Management & Budget (OMB) Circular (A-133), Audits of States, Local Governments, and Nonprofit Organizations. A-133 Audits are discussed beginning on page 2-268.

Simultaneous Audit Submissions

A school that has an audit performed under the SFA Audit Guide must submit simultaneously both the compliance audit and the audited financial statements within six months of the end of the school's fiscal year. Both the compliance audit and the financial statements audit must be performed on a fiscal year basis. In addition,

Fiscal Year Not Equal to Award Year Example


January 1, 1998
July 1, 1998
December 31, 1998
end of award year 97-98
beginning of award year 98-99
school's fiscal year (period covered by the audit)

both audits must be prepared in accordance with Generally Accepted Government Auditing Standards (GAGAS). The compliance audit and financial statements audit may be performed by different auditors. However, both audits must be submitted as one package.

Cite
34 CFR 668.27

The compliance audit of a school that has a fiscal year that does not coincide with an award year will cover parts of two award years (see the example below).

The definition of independent auditor makes clear that the compliance and financial statements audits submitted under these regulations must be performed by independent certified public accountants (CPAs) or by government auditors that meet certain governmental standards.

The Amendments of 1998 created an exception to the annual audit requirement. A school may request a waiver that, if approved, will require the school to submit a compliance audit (covering each fiscal year in the waiver period) and an audited financial statement (for the last year of the waiver period) every three years at the Department's discretion.

Example 1. The school is still required to have its administration of the SFA programs audited for the waiver period. If a school is granted a waiver for three years, when the waiver period expires the next audit must cover the school's administration of the SFA programs since the end of the period covered by its last submitted compliance audit. For example, a school's fiscal year coincides with an award year. It submits a compliance audit for its fiscal year that ends on June 30, 2000, and then receives a waiver so that its next compliance audit is due six months after the end of its 2002-2003 fiscal year. When it submits that audit, it must cover the 2000-2001, 2001-2002 and 2002-2003 fiscal years.

Example 2. If a school's fiscal year is based on an award year (July1 - June 30), and the school requests a waiver on May 1, 2000, that waiver request may include its 1999-2000 fiscal year (July 1, 1999 through June 30, 2000) plus its 2000-2001 and 2001-2002 fiscal years. If the school's fiscal year was a calendar year, the school's waiver request could include its calendar 2000 fiscal year plus its 2001 and 2002 fiscal years.

In the later example, the waiver would not include the school's 1999 fiscal year, and therefore , it would be required to submit its compliance audit and audited financial statement to the Department by June 30, 2000. To qualify, the school must demonstrate that it:

- disbursed less than $200,000 in SFA Program funds during each of the two completed award years prior to the audit period, and
- Is not a foreign institution;

- Agrees to keep records relating to each award year in the unaudited period for two years after the end of the regular record retention period for the award year;

- Has participated in the Title IV, HEA programs under the same ownership for at least three award years preceding the schoolís waiver request;

- Is financially responsible under the general requirements of financial responsibility, and does not rely on the alternative standards and requirements of exceptions to participate in the Title IV, HEA programs;

- Is not on the reimbursement or cash monitoring system of payment;

- Has not been subject of a limitation, suspension, fine or termination proceeding, or emergency action initiated by the Department or a guarantee agency in the three years preceding the school's waiver request;

- Has submitted its compliance audits and audited financial statements for the previous two fiscal years, and no individual audit disclosed liabilities in excess of $10,000; and

- Submits a letter of credit in the amount as determined below, which must remain in effect until the Secretary has resolved the audit covering the award years subject to the waiver;

- Letter of credit amount: For purposes of this section, the letter of credit amount is 10% of the total Title IV, HEA program funds the school disbursed to or on behalf of its students during the award year preceding the school's waiver request.

The Secretary rescinds the waiver if the school:

- Disburses $200,000 or more of Title IV, HEA program funds for an award year;

- Undergoes a change in ownership that results in a change of control; or

- Becomes the subject of an emergency action or a limitation suspension, fine or termination action initiated by the Department or a Guarantee Agency.

This exception to the annual audit requirement may not be granted for the award year preceding a school's required recertification. This exception does not apply to foreign schools.

If the Secretary grants the waiver, the school does not have to submit its compliance or audited financial statement until six months after –

1. The end of the third fiscal year following the fiscal year for which the school last submitted a compliance audit and audited financial statement; or

2. The end of the second fiscal year following the fiscal year for which the school last submitted compliance and financial statement audits if the award year in which the school will apply for recertification is part of the third fiscal year."

The amended regulations do not waive the requirement that an institution audit its administration of the Title IV, HEA programs; they waive the requirement that these audits be submitted on an annual basis. Therefore, if an institution is granted a waiver for three years, when the waiver period expires and the institution must submit its next compliance audit, that audit must cover the institution's administration of the Title IV, HEA programs since the end of the period covered by its last submitted compliance audit.

An institution's waiver request may include the fiscal year in which that request is made, plus the next two fiscal years. That request may not include an already completed fiscal year.

An institution is liable to repay Title IV, HEA program funds if it improperly expends those funds. A compliance audit is the vehicle for discovering those improper expenditures. Therefore, the institution will be required to pay any liabilities when the institution eventually submits a compliance audit for the fiscal year in which it made improper expenditures, and the Department resolves the audit and requests payment.

The Office of Inspector General (OIG) also conducts audits, usually in cases where there may be concern over the school's administration of the SFA Programs. A federal audit such as this does not satisfy the requirement that a school have an annual compliance and financial statements audit.

Types of Audit Guidelines

As mentioned previously, in addition to audits performed under the SFA Audit Guide, audits performed under the guidelines of the Single Audit Act (chapter 75 of Title 31, U.S.C.) will also meet the Department's audit requirements.

The type of audit a school or servicer may have depends on its method of control: public, for profit, or nonprofit. All for-profit schools must comply with the audit requirement by having an SFA compliance audit under the criteria of the Department's SFA Audit Guide. All public and nonprofit schools must comply with the Single Audit Act, which requires these schools to have an audit performed in accordance with Office of Management and Budget's (OMB) Circular A-133. (Circular A-133 allows an SFA compliance audit under the criteria of the Department's Audit Guide under limited circumstances.)

Circular A-133 is titled *Audits of States, Local Governments, and Non-Profit Organizations* and is applicable to nonprofit postsecondary schools, states, local governments, and Indian tribal governments. For many schools, this is a combined audit of all the federal programs at that school. OMB circular A-133 is available through the OMB Home Page at http://www1.whitehouse.gov/WH/EOP/OMB/html/circulars/a133/a133.html, or by calling OMB's Publication Office at (202) 395-7332.

Audits performed under the Single Audit Act have distinct auditing and submission requirements. A school submitting an audit under the guidelines of the Single Audit Act must use the submission deadlines established by the Single Audit Act.

Under the requirements of Circular A-133, a school that expends less than $300,000 of federal funds during a fiscal year is exempt from submitting the annual A-133 audit. However, if such a school has financial statements, the Department may request them. The financial statements can be submitted to the Department unaudited.

Circular A-133 permits the submission of program-specific audits if an entity expends funds in only one federal program AND the program's regulations do not require a financial statement audit. Because the SFA Program regulations do require a financial statement audit, a school may not submit a program-specific audit to satisfy the Department's audit submission requirements.

Cite
34 CFR 668.23(a)(4)

Submission Dates for SFA Audits

As mentioned previously, beginning with the 1997-98 award year, a school's or servicer's annual compliance and financial statements audit performed under the SFA Audit Guide must be based upon the fiscal year and submitted to the Department within six months after the end of the school's or servicer's fiscal year. (Again, these requirements do not apply to audits performed under the Single Audit Act that are due as specified in OMB Circular A-133.)

The chart that follows lists audit due dates and what period the audit must cover for audits due in 1999 and 2000 (this chart provides information for the most common institutional fiscal year end dates).

Generally, a school's first audit performed under these requirements must cover the entire period of time since the school began to participate in the SFA Programs. Each subsequent audit must cover the period since the preceding audit that is accepted by the Department.

Compliance Audit Submission Requirements

The compliance audit must be conducted in accordance with

- the general standards and the standards for compliance audits contained in the U.S. General Accounting Office's (GAO's) Government Auditing Standards, and

- applicable audit guides from the Department's Office of the Inspector General.

Audit submission due dates for 2000 and 2001

School's fiscal year end date	*Both audits due*	*Period audited (financial and compliance)*	*School's fiscal year end date*	*Both audits due*	*Period audited (financial and compliance)*
September 30, 1999	March 31, 2000	October 1, 1998 through September 30, 1999	September 30, 2000	March 31, 2001	October 1, 1999 through September 30, 2000
December 31, 1999	June 30, 2000	January 1, 1999 through December 31, 1999	December 31, 2000	June 30, 2001	January 1, 2000 through December 31, 2000
March 31, 2000	September 30, 2000	April 1, 1999 through March 31, 2000	March 31, 2001	September 30, 2001	April 1, 2000 through March 31, 2001
June 30, 2000	December 31, 2000	July 1, 1999 through June 30, 2000	June 30, 2001	December 31, 2001	July 1, 2000 through June 30, 2001

In conducting an audit, a school or servicer and its auditor should use the Department of Education's latest SFA Audit Guide, the accounting and recordkeeping manual for the SFA Programs (known as The Blue Book), and the ED Payment System Users Manual or GAPS Users Guide, as applicable.

The SFA Audit Guide is available on the internet at: http://www.ed.gov/offices/OIG/nonfed.

The auditor or auditing firm the school or servicer uses for its required nonfederal audit may be the same one that usually audits the school's or servicer's fiscal transactions. To produce unbiased conclusions, the auditor must be independent of those authorizing the expenditure of SFA Program funds.

The Department may require a school to provide a copy of its compliance audit report to guaranty agencies, lenders, state agencies, the Department of Veterans Affairs, or accrediting agencies.

Financial Statements Audit Submission Requirements

A school's audited financial statements must cover the school's most recently completed fiscal year. The Department uses the information in a school's audited financial statements to evaluate the school's financial responsibility (see Chapter 4). In addition to a

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school's audited financial statements, the Department may require that the school submit additional information. For example, the Department may require a school to submit or provide access to the accountant's work papers. Also, if the Department finds it necessary to evaluate a particular school's financial condition, the Department can require a school to submit a audited financial statements more frequently than once a year.

Financial statements must be prepared on an accrual basis in accordance with generally accepted accounting principles (GAAP), and audited by an independent auditor in accordance with GAGAS and other guidance contained in OMB Circular A-133, or in audit guides from the Department's Office of the Inspector General, as applicable.

Consolidated Statements

In some cases, a school's relationship with another entity may cause the Department to require a school to submit additional financial statements of the school and the entity, such as: audited consolidated financial statements; audited full consolidating financial statements; audited combined financial statements; or, under certain circumstances, audited financial statements of one or more related parties. This occurs when the Department determines that the activities or financial health of another entity may impact upon the school's total financial health. So that the Department can make this determination, a school must include in its audited financial statements a detailed description of related entities based on the definition of a related entity in the Statement of Financial Accounting Standards (SFAS) 57. In addition, the description must include all related parties and a level of detail that would enable the Department to identify readily the related party. This information may include, but is not limited to, the name, location, and description of the related entity, including the nature and amount of any transaction between the related party and the school, financial or otherwise, regardless of when it occurred.

Cite
34 CFR 600.5

A proprietary school must disclose the percentage of its revenues derived from the SFA Programs that the school received during the fiscal year covered by the audit as a footnote to its audited financial statements. The calculation of this percentage and the funds included must be arrived at using the **cash basis of accounting** Guidance on footnote disclosure can be found in the SFA Audit Guide, and in 34 CFR 600.5, and appropriate accounting references. Information regarding the calculation of this percentage (the "90/10 Rule") is found in Chapter 1.

Cite
34 CFR 668.23(d)(3)

Audits for Foreign Schools

Foreign schools must also submit an annual compliance audit and audited financial statements. However, because financial responsibility requirements vary for foreign schools based on the amount of SFA Program funds received by the school, the requirements for preparation of the financial statements also vary. A school that received less than $500,000 (in U.S. dollars) in SFA

Program funds during its most recently completed fiscal year may have its audited financial statements prepared according to the standards of the school's home country. A foreign school that received $500,000 or more in SFA Program funds during its most recently completed fiscal year must have its audited financial statements translated and presented for analysis under U.S. Generally Accepted Accounting Principles (GAAP) and Generally Accepted Government Auditing Standards (GAGAS). See Chapter 4 for more information on financial responsibility determinations for foreign schools.

Audits for Third-Party Servicers

There are also annual audited financial statements and compliance audit requirements for third-party servicers. A third-party servicer must submit an annual compliance audit. However, if a servicer contracts with only one SFA school, and that school's own audit sufficiently covers all the functions performed by the servicer, the servicer does not have to submit a compliance audit. If a servicer contracts with several SFA schools, a single compliance audit can be performed that covers all its administrative services for each school. A servicer must submit its compliance audit within six months after the last day of the servicer's fiscal year. The Department may require a servicer to provide a copy of its compliance audit report to guaranty agencies, lenders, state agencies, the Department of Veterans Affairs, or accrediting agencies.

Cite
34 CFR 668.23(a)(3) and (c)

In addition to submitting a compliance audit, a servicer that enters into a contract with a lender or guaranty agency to administer any aspect of the lender's or guaranty agency's programs must submit annually audited financial statements. The financial statements must be prepared on an accrual basis in accordance with generally accepted accounting principles (GAAP) and audited by an independent auditor in accordance with GAGAS and any other guidance contained in audit guides issued by the Department's Office of the Inspector General.

NEW

Guidance for audits of third-party servicers is found in the January 2000 Department of Education's Audit Guide, *Audits of Federal Student Financial Assistance Programs at Participating Institutions and Institution Servicers.*

A school may never use a third-party servicer's audit in place of its own required audit, because the school is ultimately liable for its own violations as well as those incurred by its third-party servicers. See Chapter 2 for more information on third-party servicers.

Cite
34 CFR 668.24(f)

Access
Includes the right to copy records (including computer records), to examine computer programs and data, and to interview employees without the presence of management or the presence of the school's or a servicer's tape recorder.

Having the Audit Performed

The school or servicer must make its program and fiscal records, as well as individual student records, available to the auditor. (Required recordkeeping is discussed in Chapter 8.) Both the financial aid and business offices should be aware of the dates the auditors will be at the school, and make sure that someone is on hand to provide requested documents and answer questions during that period.

At the end of the on-site review, the auditor will hold an exit interview. At a school, this exit interview is usually conducted with the personnel from the school's financial aid and other relevant offices. The exit interview is not only an opportunity for the auditor to suggest improvements in procedures, but it also gives the school or servicer a chance to discuss the draft report and review any discrepancies cited in the report. The exit interview is a good time to resolve any disagreements before the final report is prepared.

The final report will be prepared by the auditor and submitted to the school or servicer.

Submitting Audits

The school or servicer must submit four copies of the combined Financial Statement and Compliance Package Audit Report and the school's or servicer's Corrective Action Plan (CAP) to the Department's Data Management and Analysis Division at the following address:

By U.S. Postal Service:

U.S. Department of Education
Case Management and Oversight
P.O. Box 44805
L'Enfant Plaza Station
Washington, DC 20026-4805

By commercial overnight mail/courier delivery:

U.S. Department of Education
Case Management and Oversight
7th & D Streets, S.W.
GSA Building, Room 5643
Washington, DC 20407

A-133 audits must be submitted to the

Federal Audit Clearinghouse
Bureau of the Census
P.O. Box 5000
Jeffersonville, Indiana 47199-5000

The Federal Audit Clearinghouse will process these audits for the Department. Although the OIG is not the submission point for these audits, the OIG will provide technical assistance on these audits to schools and auditors.

For an audit performed under the Department's SFA Audit Guide, the Department reviews the audit report for format, completeness, and to ensure that it complies with the government's auditing standards.

Based on the audit findings and the school's or servicer's written explanation, the Department will determine if any funds were spent improperly. The school or servicer must repay any improperly spent funds within 45 days, unless the school or servicer has properly appealed the decision.

Access to Records

Once the audit is complete, the school or servicer must give the Department and the OIG access to any records or other documents necessary to review the audit. A school that uses a third-party servicer must also give the Department and the OIG access to records or other documents necessary to review a third-party servicer's compliance or financial statements audit. In addition, the school's or servicer's contract with the auditor must specify that the auditor will also give the Department and the OIG access to the records and documents related to the audit, including work papers. In all cases, access to records includes the ability of the Department or OIG to make copies of the records.

Cite
34 CFR 668.24(f)

Throughout the audit process, and for other examinations such as program reviews and state reviews, the school or servicer is required to cooperate fully with its independent auditor, the Department and its Inspector General, the Comptroller General of the United States, the appropriate guaranty agency and accrediting agency. Cooperation includes timely and reasonable access to records (including computer records) for examination and copying, and to personnel for the purpose of obtaining relevant information.

PROGRAM REVIEWS

In addition to reviewing audits, the Department conducts its own program reviews to identify possible problems in a school's SFA administration. A program review covers many of the same areas as an audit, including fiscal operations and accounting procedures, as well as the school's compliance with the specific program requirements for student eligibility and awards. However, program reviews tend to focus more on regulatory requirements that are specific to the SFA Programs. For example, the program review team will examine student records and admissions records, fund requests and transfers, records pertaining to due diligence and the collection of Federal Perkins Loans, time sheets and pay rates for the Federal Work-Study (FWS) Program, and documents related to the reporting process for the Federal Pell Grant and campus-based programs.

Selection of Schools for Review

The Amendments of 1998 require the Department to give priority in program reviews to schools that meet certain criteria. Prior to the Amendments, the law stated that the Department was permitted, but was not required, to give priority to schools that met the criteria specified in the law. These criteria (as modified by the Amendments where noted) are:

- A school has a cohort default rate in excess of 25 percent or a rate that places the school in the highest 25 percent of such schools;
- A school has a default rate in dollar volume that places the school in the highest 25 percent of such schools;
- A school has a significant fluctuation in Federal Stafford Loan volume, Direct Stafford Loan volume or Federal Pell Grant awards, that are not accounted for by changes in the programs; (The Amendments clarified that significant fluctuations in amounts of aid received by schools are those that do not relate to programmatic changes and added Direct Loans to the list of programs.)
- A school is reported to have deficiencies or financial aid problems by the appropriate state agency or accrediting agency;
- A school has high annual dropout rates;
- It is determined by the Department that the school may pose a significant risk of failure to comply with the administrative capability or financial responsibility requirements. (The Amendments more clearly defined the other institutions that the Secretary may target for program reviews as those that pose a significant risk of failure.)

In addition, the Amendments added the following special administrative rules under which the Department is required to:

- Establish guidelines designed to ensure uniformity of practice in the conduct of program reviews.
- Make copies of all review guidelines and procedures available to all participating schools.
- Permit schools to correct administrative, accounting, or record keeping errors if the errors are not part of a pattern and there is no evidence of fraud or misconduct.
- Inform the appropriate state and accrediting agency whenever it takes action against a school.

The Amendments of 1998 also require civil penalties arising from a program review or audit to be based upon the gravity of the violation.

These provisions are not subject to the negotiated rulemaking process. These provisions are effective October 1, 1998.

Written Report

After the Department performs a program review of a school, the program review team prepares a written report that will be sent to the school within approximately 60 days of the review. The school may respond to this report if it wishes to offer additional information to support its position, or if it disagrees with any of the report's conclusions. When the Department has fully considered the school's response and all issues have been resolved, the Department official will send a copy of the final program review determination to the school.

It may occasionally be necessary for Department officials to perform an unannounced program review. The General Provisions regulations stipulate that Department officials provide a school with a written request for a program review, but do not preclude the Department from providing such a request at the time the reviewers arrive at the school.

In an unannounced program review, the Department reviewers will present a written request to school officials before beginning the review. The school is expected to have its records organized and readily available, without objection to providing access to those records. However, because certain school officials may not be immediately available during the review, the school may be afforded additional time to submit information regarding the review findings. The Department has regulatory authority to take an emergency action if a school denies access to the reviewers performing an unannounced program review (see page 2-282). School officials will be informed if an emergency action is to be taken.

GUARANTY AGENCY REVIEWS

The FFEL Program regulations also require guaranty agencies to conduct program reviews at postsecondary schools. A guaranty agency must conduct biennial (once every two years) on-site reviews of at least all schools for which it is the principal guaranty agency that have a cohort default rate for either of the two preceding fiscal years that exceeds 20% (unless a the Department requires the school to take specific default reduction measures or if the total amount of loans entering repayment in each of those fiscal years does not exceed $100,000). Alternatively, a guaranty agency may use its own criteria to select schools for the biennial on-site reviews if the Department approves the agency's proposed alternative selection methodology. A program review conducted by a guaranty agency is similar to a Department program review, consisting of an entrance interview, a review of student records, an exit interview, and a written report.

However, the guaranty agency's review will focus on how the school meets FFEL-specific requirements, such as

- certification of the loan application,
- maintenance of records supporting the student's loan eligibility,
- processing procedures and payment of loan monies, and
- prompt lender notification when the student changes enrollment status, such as complete withdrawal.

Two copies of the guaranty agency's report are forwarded to the Department, including the school's payment if liabilities were assessed.

Cite
Subpart H

APPEALING AUDIT AND PROGRAM REVIEW DETERMINATIONS

The law allows for appeals of final audit or program review determinations. Note that only a final determination may be appealed. The letter conveying a final audit determination is clearly identified as a "FINAL AUDIT DETERMINATION LETTER" (FAD) and explains the appeals procedures. For a program review, the final determination letter is marked "FINAL PROGRAM REVIEW DETERMINATION LETTER."

If a school or servicer wants to appeal an audit or program review determination, it must appeal, in writing, to the Departmental official identified in the determination within 45 days after it receives the determination. If the school or servicer makes such a request, the determination will be reviewed by an impartial hearing official appointed by the Department. In most cases, an oral hearing will not be required. The school or servicer and the Department must submit briefs with any accompanying materials to the official, and provide the other party with a copy of its submission at the same time. If the final decision is appealed by either party, the Secretary will review it.

If the hearing official (or the Secretary) finds that the school or servicer improperly expended funds or otherwise failed to comply with applicable program rules and requirements, the Department will collect the liability owed, if any. The school or servicer must repay the funds within 45 days of the Department's notification of the liability, unless the Department grants an extension. At its option, the Department may elect to use an administrative offset to collect the funds owed.

REQUIREMENTS WHEN A SCHOOL CEASES TO BE AN ELIGIBLE INSTITUTION

A school loses its eligibility to participate in the SFA Programs when it no longer meets the requirements of 34 CFR Part 600, certain requirements of Part 668 or when the Department terminates the school under Subpart G of the General Provisions. Examples of situations that trigger loss of eligibility to participate include

- loss of accreditation,
- loss of state licensure,
- the PPA expires or is terminated by the Department,
- provisional certification is revoked by the Department,
- the school closes or stops providing educational instruction (for a reason other than a normal vacation period or as a result of a natural disaster), and
- the school files a petition for bankruptcy.

In general, a school that ceases to be eligible must notify the Case Management and Oversight within 30 days of its loss of eligibility to participate in the SFA Programs. Requirements for notifying the Department are in 34 CFR 600.40.

Loss of Accreditation

When a school loses its institution-wide accreditation, the Department generally may not certify or recertify that school to participate in any SFA Program for two years after the school has had its accreditation withdrawn, revoked, or otherwise terminated for cause or a school has voluntarily withdrawn under a show cause or suspension order. If a school wishes to be reinstated, it must submit a fully completed Application to the Department.

Exceptions

The Department will not recertify a school that has lost its institution-wide accreditation in the previous two years unless the original accrediting agency rescinds its decision to terminate the school's accreditation. (The school may not be recertified on the basis of accreditation granted by a different accrediting agency during the two-year period.) Similarly, if a school voluntarily withdrew from accreditation during the last two years under a "show cause" or suspension order, the Department will not recertify unless the original order is rescinded by the accrediting agency.

Other exceptions:

- If the Department determines that loss of institution-wide accreditation was due to the school's religious mission or affiliation, the school can remain certified for up to 18 months while it obtains alternative accreditation; and

- If a school's institution-wide accrediting agency loses its Department recognition, the school has up to 18 months to obtain new accreditation.

Note that it is possible for accreditation to be withdrawn from one of the programs at a school without affecting the accreditation (and eligibility) of other programs at the school.

REQUIREMENTS WHEN A SCHOOL'S SFA PARTICIPATION ENDS

A school may stop participating in the SFA Programs voluntarily or it may be required to leave involuntarily. In either situation, there are required close-out procedures to follow.

A separate close out audit is not required if a school closes an additional location or a branch campus because the next due compliance audit for the school must report on the use of SFA Program funds at the closed location. However, the school must notify the Department of the additional location or a branch closure. See Chapter 10 for information on reporting information to the Department.

VOLUNTARY WITHDRAWAL FROM SFA PARTICIPATION

A school may voluntarily withdraw from participating in one or all of the SFA Programs. This might be for any number of reasons. For instance, a school might wish to withdraw from the Perkins Loan Program to work on lowering high student-loan cohort default rates. To withdraw from one or all of the SFA Programs, the school must notify the Department via the electronic application. For more information on these requirements and procedures, contact the appropriate case management team. Note: A school that withdrew voluntarily (for instance, to lower its default rate) can request to participate again without the waiting period required for a school that was terminated from the program involuntarily or withdrew voluntarily while under a show cause or suspension order.

Withdrawing from the SFA Programs while under a termination order or other sanction—or to avoid being placed under them—is not considered voluntary withdrawal.

INVOLUNTARY WITHDRAWAL FROM SFA PARTICIPATION

A school's participation ends in the following circumstances:

- The school closes or stops providing instruction (for a reason other than normal vacation periods or as a result of a natural disaster that directly affects the school or its students). Note: If the school closes its main campus or stops providing instruction on its main campus, its loss of eligibility includes all its locations and programs.

- The school loses its eligibility.
- The school's participation is terminated under Subpart G.
- The school's period of participation expires or the school's provisional certification is revoked.
- The school's PPA is terminated or expired.
- The school's cohort default rate exceeds the limit.

If a school ceases to provide educational instruction in all programs, the school should make arrangements for its students to complete their programs. If the school chooses to enter into a formal teachout arrangement, the school should contact the appropriate case management team for guidance.

When Participation Ends

When a school's participation in an SFA Program ends—for whatever reason—the school must immediately notify the Department and comply with the following minimum requirements:

- Within 45 days of the effective ending date of participation, submit to the Department all financial reports, performance reports and other reports required by each appropriate SFA Program regulation, as well as a dated letter of engagement for an audit by an independent public accountant (IPA) of all SFA Program funds received under the program(s). The completed audit report must be submitted to the Department within 45 days after the date of the letter of engagement.
- Report to the Department on the arrangements for retaining and storing (for the remainder of the appropriate retention period described in 34 CFR 668.24) all records concerning the school's management of the appropriate SFA Programs. (See Chapter 8.)
- Tell the Department how the school will provide for collecting any outstanding SFA Program student loans held by the school.
- Refund students' unearned tuition and fees. (See Chapter 6.)

Additional Closeout Procedures

In addition, a school that closes must refund to the federal government or, following written instructions from the Department, otherwise distribute any unexpended SFA Program funds it has received (minus its administrative cost allowance, if applicable). The school must also return to the appropriate lender(s) any loan proceeds the school received but has not disbursed to students. If the school's participation in the Leveraging Educational Assistance Partnership (LEAP) Program ends, the school must inform the state and follow the state's instructions.

If a school's participation ends during a payment period (or enrollment period for FFEL Programs), but the school continues to provide education in the formerly eligible program until the end of the payment or enrollment period, the school may

- use the SFA Program funds in its possession to satisfy unpaid Pell Grant or campus-based program commitments made to students for that payment period or for previously completed payment periods before the school's participation ended. (The school may request additional funds from the Department to meet these commitments.)
- satisfy any unpaid FFEL commitments made to students for that period of enrollment by delivering subsequent FFEL disbursements to the students or by crediting them to the students' accounts (if the first disbursement already was delivered or credited before the school's participation ended).
- use the SFA Program funds in its possession to satisfy unpaid Direct Loan commitments made to students for that period of enrollment before participation ended by delivering subsequent Direct Loan disbursements to the students or by crediting them to their accounts (if the first disbursement already was delivered or credited to the students' accounts before the school's participation ended). The school may request additional funds from the Department to fulfill this commitment.

Contact the Department's appropriate regional office staff for guidance in fulfilling these requirements and responsibilities.

CASE MANAGEMENT

Case management is the Department's new approach to oversight of schools that participate in the SFA Programs. Case management is designed to provide the Department with a thorough picture of a school's overall compliance through the use of Case Teams.

The Department's Institutional Participation and Oversight Service (IPOS) has Case Teams that are composed of both regional and Washington, DC staff. Each team is assigned a portfolio of schools. The team is responsible for all oversight functions for the schools in its portfolio. These functions include audit resolution, program reviews, financial statement analysis, and recertification. In addition, in January 1998, the Department announced the addition of Institutional Improvement Specialists for each Case Team. (See "Dear Colleague" letter GEN-98-4). The Institutional Improvement Specialists are responsible for compliance improvement. The Specialists seek to improve compliance by offering targeted technical assistance and presentations on IPOS-related policies and procedures.

Each school is assigned a Case Manager who leads the team in its evaluation of that school. The entire team will evaluate information on the school from a variety of sources to identify any compliance problems at the school. The team can then assess potential risk to the SFA Programs and determine appropriate action. Once appropriate actions are decided upon, the Case Manager assigned to the school ensures that the recommended actions are taken.

Case Teams will collect and review information on a school from many sources including, but not limited to

- applications for recertification,
- financial and compliance audits,
- state agencies,
- accrediting agencies and licensing boards,
- student complaints, and
- Department databases.

Possible Actions

A case team may decide to take actions that include, but are not limited to

- initiating recertification or provisional certification,
- initiating a program review,
- establishing liabilities,
- developing a strategy for providing technical assistance,
- transferring the school to the reimbursement payment method (see Chapter 5),
- requiring a letter of credit, and
- referring the school for an enforcement action.

Actions do not always have to be negative. For example, the case team can recommend a school for participation in the Quality Assurance Program (see Chapter 10.)

The Department will use a system of risk analysis to identify schools with the greatest need for oversight. The Department will use the analysis of various Department data systems to generate a risk score for a school. This will enable the Department to target resources to those schools that present the highest risk to the government.

Case management is beneficial to schools also because a school can contact one team that will have all information on the school available in one place. (For a list of contact phone numbers for the regional case management teams, see page 2-286.)

Administrative Subpoena Authority Cite
Sec. 490A

CORRECTIVE ACTIONS AND SANCTIONS

Administrative Subpoena Authority

The Amendments of 1998 give the Department the authority to issue administrative subpoenas to assist in conducting investigations of possible violations of the provisions of SFA Programs. In addition, the law authorizes the Department to request the Attorney General to invoke the assistance of any court of the United States for purposes of enforcement of a subpoena if necessary. This provision is effective October 1, 1998.

Sanctions

Sanctions include emergency actions, fines, limitations, suspensions, and terminations.

The Department will sanction any school that

- violates the law or regulations governing the SFA Programs, its PPA, or any agreement made under the law or regulations; and/or
- substantially misrepresents the nature of its educational programs, its financial charges, or its graduates' employability. (For details on misrepresentation, see Chapter 7.)

Similarly, the Department may also sanction a third-party servicer that performs functions related to the SFA Programs. Further, the Department has the authority to sanction a group of schools or servicers if it finds that a person or entity with substantial control over all schools or servicers within the group has violated any of the SFA Program requirements or has been suspended or debarred from program participation. (See Chapter 2.)

Actions Due to Program Violations or Misrepresentation

If it appears that a school has violated the SFA Program requirements, the Department may allow the school to respond to the problem and indicate how it will correct it. If this informal approach fails to correct the situation, or if the school has repeatedly violated the law or regulations, the Department may take emergency action, fine the school, or initiate a limitation, suspension or termination of SFA Program participation.

In addition, the Department has the authority to terminate a school or program that no longer meets the eligibility criteria given in Chapter 1. For details on steps that a school should follow in any of these situations, see Subpart G of the General Provisions regulations and Section 600.41 of the Institutional Eligibility regulations.

Emergency Action

The Department may take emergency action to withhold SFA Program funds from a school or its students if the Department receives information, determined by a Department official to be reliable, that the school is violating applicable laws, regulations, special arrangements, agreements, or limitations. To take an emergency action, the Department official must determine that

- the school is misusing federal funds,
- immediate action is necessary to stop this misuse, and
- the potential loss outweighs the importance of using established procedures for limitation, suspension, and termination.

The school is notified by registered mail (or other expeditious means) of the emergency action and the reasons for it. The action becomes effective on the date the notice is mailed.

An emergency action suspends the school's participation in all SFA Programs and prohibits the school from disbursing SFA Program funds or certifying FFEL applications. The action may not last more than 30 days unless a limitation, suspension, or termination proceeding is initiated during that period. In that case, the emergency action is extended until the proceeding, including any appeal, is concluded. The school is given an opportunity to "show cause" that the action is unwarranted.

Fine

The Department may fine a school up $25,000 for each statutory or regulatory violation. (The Department first notifies the school of its intent to fine so the school can, if it chooses, request a hearing.) If the school is proven guilty of the violation(s), it may appeal to the Department for a compromise on the amount of the fine(s) imposed at the hearing. In determining the amount owed by the school, the Department will consider the school's size and the seriousness of its violation or misrepresentation.

Limitation

Under a limitation, a school agrees to abide by certain specific conditions or restrictions as it administers SFA Program funds; by doing so, it is allowed to continue participating in the SFA Programs. A limitation lasts for at least 12 months. If the school fails to abide by the limitation's conditions, a termination proceeding may be initiated.

Suspension

A suspension removes a school from participation in the SFA Programs for a period not to exceed 60 days (unless a limitation or termination or proceeding has begun). A suspension action is used when a school can be expected to correct an SFA Program violation in a short time.

Termination

A termination ends a school's participation in the SFA Programs. A school that has violated the law or regulations governing the SFA Programs, its PPA, or any other agreement made under SFA regulations and was terminated from participating in the SFA Programs generally may not apply to be reinstated for 18 months. A school that substantially misrepresented the nature of its educational programs, its financial charges, or the employability of its graduates, may not be reinstated for at least three months.

Corrective Action

As part of any fine, limitation, suspension, or termination proceeding, the Department may require a school to take corrective action. This may include making payments to eligible students or repaying illegally used funds to the Department. In addition, the Department may offset any funds to be repaid against any benefits or claims due the school.

Possibility of Reinstatement

As mentioned previously, a school requesting reinstatement in the SFA Programs must submit a fully completed Application to the Department and demonstrate that it meets the standards in Subpart B of the General Provisions. As part of the reinstatement process, the school must show that the school has corrected the violation(s) on which its termination was based, including repaying all funds (to the Department or to the eligible recipients) that were improperly received, disbursed, caused to be disbursed, or withheld. The Department may approve the request, deny the request, or approve the request subject to limitations (such as granting the school provisional certification). If the Department approves the reinstatement request, the school will receive a new ECAR and enter into a new PPA.

Criminal Penalties Cite
Sec 490

Criminal Penalties

The law provides that any person who knowingly and willfully embezzles, misapplies, steals, obtains by fraud, false statement, or forgery, or fails to refund any funds, assets, or property provided or insured under Title IV of the Higher Education Amendments, or *attempts* to commit any of these crimes will be fined up to $20,000 or imprisoned for up to 5 years, or both. If the amount of funds involved in the crime is $200 or less, the person will be fined up to $5,000 or imprisoned up to one year, or both.

Any person who knowingly and willfully makes any false statement, furnishes any false information, or conceals any material information in connection with the assignment of an SFA Program loan or attempts to do so, will, upon conviction, be fined up to $10,000 or imprisoned for up to one year, or both.

Any person who knowingly and willfully makes, or attempts to make, an unlawful payment to an eligible lender of loans as an inducement to make, or to acquire by assignment, a loan insured under such part will, upon conviction, be fined up to $10,000 or imprisoned for up to one year, or both.

Any person who knowingly and willfully destroys or conceals, or attempts to destroy or conceal, any record relating to the provision of SFA Program assistance with intent to defraud the United States or to prevent the United States from enforcing any right obtained by subrogation under this part, will, upon conviction, be fined up to $20,000 or imprisoned up to 5 years, or both.

Case Management Teams
Case Management Divisions
Case Management and Oversight

Case management and Oversight contains four Case Management Divisions. These divisions perform similar functions, and each division is responsible for a separate section of the U.S. Each division implements the following case management team functions: audit resolution, program review, financial statement analysis, and recertification. The four divisions are:

- *Case Management Division Northeast*
- *Case Management Division Southeast*
- *Case Management Division Southwest*
- *Case Management Division Northwest*

The division functions are performed by teams headed by an Area Case Director and composed of staff from Washington, D.C. and the region. Each division contains two or more of these teams. Listed below are the teams, their telephone numbers, and the states each team is responsible for.

Team	***Telephone #***	***States Covered***
Case Management Division Northeast		
Boston Team	617-223-9338	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont
New York Team	212-264-4022	New Jersey, New York, Puerto Rico, and Virgin Islands
Philadelphia Team	215-656-6442	Delaware, Maryland, Pennsylvania, Virginia, W. Virginia, and the District of Columbia
Case Management Division Southeast		
Atlanta Team	404-562-6315	Alabama, Florida, Georgia, Mississippi, North Carolina, and South Carolina
Kansas City Team	816-880-4053	Iowa, Kansas, Kentucky, Missouri, Nebraska, and Tennessee
Case Management Division Southwest		
Dallas Team	214-880-3044	Arkansas, Louisiana, New Mexico, Oklahoma, and Texas
San Francisco Team	415-556-4295	Arizona, California, Hawaii, Nevada, American Samoa, Guam, Republic of Palau, Republic of the Marshall Islands, Northern Marianas, and the Federated States of Micronesia
Case Management Division Northwest		
Chicago Team	312-886-8767	Illinois, Minnesota, Ohio, and Wisconsin
Seattle Team	206-287-1770	Alaska, Idaho, Oregon, Washington, and Indiana
Denver Team	303-844-3677	Colorado, Michigan, Montana, North Dakota, South Dakota, Utah, and Wyoming

The Case Management Division Northeast is also responsible for certification and monitoring of foreign schools. For information on foreign schools you should contact 202-708-9257.

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Distance Education

CHAPTER 12

In this chapter, we discuss the applicability of the SFA Program requirements to programs offered through distance education.

For some time now, schools have used various modes of delivering instruction to provide access to students who cannot or find it inconvenient to engage in traditional on-campus study. These modes of delivery include providing courses at off-campus sites or on weekend, correspondence study, and video based on televised instruction.

Distance Education Cite
34 CFR 600.7

Distance education is not a new mode of delivery. It is a form of non-traditional education that frequently addresses the time and program needs of students. Courses are often offered in a non-traditional term structure. The availability of new technologies and the Internet have spurred significant growth in the number and types of distance education programs schools offer today.

Certain SFA Program requirements, that tend to be organized around the structures of on-campus instruction, restrict or are not easily applied to distance education programs. Sometimes, questions regarding program definition, program eligibility, and student eligibility for funds arise when schools expand their course offerings with distance learning options.

The Higher Education Amendments of 1998, Public Law 105-244 (the Amendments of 1998) address this growing problem by authorizing a Distance Education Demonstration Program (Demonstration Program). Information about the Demonstration program is at the end of this chapter.

This Chapter covers:

Dear Colleague Letter GEN-98-10:
For Correspondence Courses
For Telecommunication Courses
The Distance Education Demonstration Program.

"DEAR COLLEAGUE" LETTER GEN-98-10

"Dear Colleague" letter GEN-98-10, published in May 1998, provides information regarding the applicability of the SFA Program requirements to distance education programs. This guidance is applicable to distance education programs that are offered at schools that do not participate in the Demonstration Program. Although the "Dear Colleague" letter provides information on many areas other than institutional eligibility and participation, all the guidance of the "Dear Colleague" is repeated here so that a school may review it in its entirety.

Definitions

Correspondence Course
Sec. 484(l); 34 CFR 600.2

What is a correspondence course?

A correspondence course is a home study course provided by a school to students who are not physically attending classes at the school. The school provides instructional materials, including examinations, to the students. When students complete a portion of the instructional materials, the students take the examinations that relate to that portion of the materials and return the examinations to the school for grading.

A home study course that is delivered in whole or in part through video cassettes or video discs is a correspondence course unless the school also delivers comparable instruction to students physically attending classes at the school during the same award year.

A telecommunications course (see below) is a correspondence course for purposes of SFA Program eligibility, if the sum of telecommunications and other correspondence courses offered by that school equals or exceeds 50 percent of the total courses offered at that school.

If a course is part correspondence and part residential training, the course is considered to be a correspondence course.

Telecommunications Course
Sec. 484(l); 34 CFR 600.2

What is a telecommunications course?

A telecommunications course is a course offered principally through the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, satellite, audio conferencing, computer conferencing, video cassettes or discs.

The term "telecommunications" does not include a course that is delivered using video cassettes or disc recordings unless the school also delivers comparable instruction offered on the cassettes or discs to students physically attending classes at the school during the same award year. If the course offered in the manner described above does not qualify as a telecommunications course, it is a correspondence course.

Educational Program
34 CFR 600.2

What is an educational program?
An educational program is a legally authorized postsecondary program of organized instruction or study that leads to an academic, professional, or vocational degree or certificate, or other recognized educational credential. However, a school is not considered to be providing an educational program if the school does not provide instruction itself (including a course of independent study), but merely gives credit for one or more of the following: instruction provided by other schools or schools; examinations provided by agencies or organizations; or other accomplishments such as life experience.

Institutional Eligibility

Institutional Eligibility
Sec. 481(a)(3)(A) and (B); 34 CFR 600.7

What is the effect of correspondence courses on institutional eligibility?
In general, a school does not qualify as eligible to participate in the SFA Programs if, for the latest complete award year,

- more than 50 percent of the school's courses were correspondence courses, or
- 50 percent or more of the school's regular enrolled students were enrolled in correspondence courses.

For purposes of this provision a telecommunications course is considered to be a correspondence course if the sum of telecommunications and correspondence courses the school provided during its latest complete award year equaled or exceeded 50 percent of the total number of courses it provided during that year.

These restrictions do not apply to a school that qualifies as a technical institute or vocational school used exclusively or principally for the provision of vocational education to individuals who have completed or left high school and who are available for study in preparation for entering the labor market under section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act;

If a correspondence course adds technology such as email, fax, or phone, use the rules for the predominant method, correspondence or telecommunicatioins, in which courses are offered in the program.

Calculating the number of correspondence courses.
- A correspondence course may be a complete educational program offered by correspondence, or one course provided by correspondence in an on-campus (residential) educational program;

- A course must be considered as being offered once during an award year regardless of the number of times it is offered during that year; and

- A course that is offered both on campus and by correspondence must be considered two courses for the purpose of determining the total number of courses the school provided during an award year.

Student Eligibility
Sec. 484(k); 34 CFR 668.38 and 690.2

Student Eligibility

Are there any limits on a student's eligibility for SFA Program funds for attendance in a correspondence course?

A student is not eligible to receive SFA Program funds for a correspondence course unless the course is part of a program leading to an associate, bachelor's, graduate, or professional degree. This means no student enrolled in certificate programs or other short term programs offered through correspondence is eligible to receive SFA Program funds.

A student enrolled in a telecommunications course is considered enrolled in a correspondence course unless the total number of telecommunication and correspondence courses the school provides is fewer than 50 percent of the courses the school provides during an award year, and the student is enrolled in a program that leads to a certificate, associate, bachelor's, graduate, or professional degree. (In making this determination, the school must use its latest complete award year, and must calculate the number of courses as described above.) The pursuit of a certificate was added with the 1998 Amendments.

In order to be eligible for SFA Program funds, a student enrolled solely in a program of study by correspondence must be carrying a work load of at least 12 hours of work per week, or must be earning at least 6 credit hours per semester, trimester, or quarter. A student enrolled solely in correspondence study cannot be considered more than a half-time student.

Cost of Attendance
Sec. 472(5) and 472

Cost of Attendance

What costs can be included in a student's cost of attendance?

For a student engaged in a program of study by correspondence, generally the only costs that can be included in the student's cost of attendance are tuition and fees and, if required, books and supplies. Travel and room and board costs can only be included if they are incurred specifically in fulfilling a required period of residential training.

Generally, a student who is studying via telecommunications does not have any restrictions placed on his or her cost of attendance unless the financial aid officer determines (using his or her professional judgement) that telecommunications instruction results in a substantially reduced cost of attendance.

Federal Pell Grant Program and Federal Supplemental Educational Opportunity Grant (FSEOG) Program Disbursements

Are there any special disbursement rules that apply to students in correspondence courses?

Generally, Federal Pell Grant Program and FSEOG Program disbursements can be made up to 10 days before the first day of classes for a payment period. However, there are special rules for students enrolled in correspondence study programs.

FSEOG Program
A correspondence student must submit his or her first completed lesson before receiving an FSEOG payment.

Pell Grant Program
For a non-term-based correspondence portion of a program of study the school must make—

- the first payment to a student for an academic year after the student submits 25 percent of the lessons, or otherwise completes 25 percent of the work scheduled for the program or the academic year, whichever occurs last; and

- the second payment after the student submits 75 percent of the lessons, or otherwise completes 75 percent of the work scheduled for the program or the academic year, whichever occurs last.

For a term-based correspondence portion of a program of study the school must make the payment to a student for a payment period after the student completes 50% of the lessons, or otherwise completes 50% of the work scheduled for the term, whichever occurs last.

FSEOG Program Disbursements
34 CFR 676.16(f)

Pell Grant Program Disbursements
34 CFR 690.66

Miscellaneous Questions and Answers

Q. How can you determine if a course is a telecommunications course or a correspondence course when the course is delivered using a video cassette or disc recording?

A. The course would be considered a telecommunications course if the school also delivers instruction, comparable to that offered on the cassette or disc, to students physically attending classes at the school during the same award year.

If the course offered on the cassette or disc is not offered to students physically attending classes at the school during the same award year, it is considered a correspondence course.

Q. Is a student enrolled in a correspondence or telecommunications course eligible to receive SFA Program funds for that course?

A. *For correspondence students*

If the student is enrolled in a program leading to an associate, bachelor's, or graduate or professional degree, the student is eligible to receive SFA Program funds. If the student is enrolled in a program leading to a certificate, diploma, or similar type of credential, the student is not eligible to receive SFA Program funds.

For telecommunications students

There are restrictions placed on the eligibility of telecommunication students to receive SFA Program funds.

Q. May a school choose not to award SFA Program assistance to otherwise eligible students who are enrolled in distance education courses or programs?

A. No, a school may not refuse to provide Title IV funds to a student because he or she is enrolled in a distance education program. However, a school may refuse to certify an FFEL application or originate a Direct Loan (or may reduce the amount of the FFEL or Direct Loan) for a student if the decision is made on a case-by-case basis, and the reason (not merely because the student is a distance education student) is provided to the student in writing and documented in the student's file.

DISTANCE EDUCATION DEMONSTRATION PROGRAMS

Purpose of the Demonstration Program

The Distance Education Demonstration (DED) Program was created by the Amendments of 1998 to

- test the quality and viability of distance education programs,
- increase student access to higher education through distance education programs,
- help determine
  - Δ the most effective means of delivering quality education through distance education programs,
  - Δ specific statutory and regulatory provisions needing modification to provide greater access to distance education programs, and
  - Δ the appropriate levels of Federal student assistance for students enrolled in distance education programs.

Distance Education Demonstration Program
Sec. 486

Distance Education
An educational process that is characterized by the separation, in time or place, of the student and instructor and includes courses offered principally through the use of various means including television, audio, or computer transmission, such as open broadcast, closed circuit, cable, microwave, or satellite transmission; audio or computer conferencing; video cassettes or discs; or correspondence.

Waivers of SFA Program Requirements

The Department may waive for schools in the demonstration program specific requirements in Parts F and G of the HEA related to computer costs, weeks of instruction, the Correspondence Course Limitation, and the Correspondence Student Limitation, and regulations that inhibit the operation of distance education. (For more information on the Correspondence Course Limitation, and the Correspondence Student Limitation, see Chapter 1).

Eligible Applicants

The Department is authorized to select institutions, systems of institutions, or consortia of institutions to participate in the demonstration program.

A school was eligible to apply to participate in the Demonstration Program if it:

- Is located in the United States and participates in the SFA Programs;
- Provides a 2-year program that leads to an associate degree or a 4-year program that leads to a baccalaureate degree or higher degree and would be eligible to participate in the SFA Programs but for the fact that they do not meet the Correspondence Course Limitation, and/or the Correspondence Student Limitation; or
- Is Western Governors University.

In addition, systems and consortia of these institutions were eligible to apply to participate in the program.

Applying to Participate

Each applicant institution's application included:

- descriptions of its consultation with its accrediting agency with regard to quality assurances of its distance education program,
- proposed waivers of statutory and regulatory requirements and the reason the waivers are being sought,
- a description of the programs and students to whom the programs will be offered
- an assurance of full cooperation in evaluations of the demonstration program, and
- any other information the Department may require

Selection of Participants

The Department selected 15 participants for the first year. The Department may add up to 35 participants for the third year, if the Department believes expansion is warranted based upon the evaluations conducted in accordance with specific criteria in the law (see below).

When selecting participants, the Department must take into account:

- the number and quality of applications received
- the Department's capacity to monitor each school's participation, and
- each school's financial responsibility, administrative capability, and the program(s) being offered through distance education, and
- the diversity of the schools selected with respect to size, mission, and geographic distribution.

Evaluation of the Demonstration Program

The Department must evaluate each demonstration program on an annual basis. This evaluation must address

- the extent to which a participant has met the goals set forth in its application, including the measures of program quality assurance,
- the number and types of student participation, including the progress of students toward certificates or degrees, and the extent to which participation in the programs increased,
- issues related to student financial assistance for distance education,
- effective technologies for delivering distance education course offerings, and
- impediments caused by program requirements not waived.

In addition, the Department must review current policies and identify those that present impediments to the development and use of distance education and to other nontraditional methods of expanding access to higher education.

The Department must report to Congress within 18 months of the demonstration program's initiation with respect to the evaluations of the programs and any proposed statutory changes designed to enhance the use of distance education. In addition, the Department must provide additional annual reports to Congress regarding the demonstration programs.

Oversight

The Department must carry out, on a continuing basis, various oversight activities, including assuring participants' compliance with applicable statutory and regulatory requirements, providing technical assistance, monitoring student participation, and consulting with accrediting agencies and State regulatory authorities.

Notification to the Public and Congress

The Department must make available to the public and the Congress a list of participants, the specific requirements being waived for each participant, and a description of the distance education courses being offered by each participating institution.

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Student Financial Assistance
U.S. Department of Education
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